

MIDLOTHIAN PUBLIC LIBRARY
CONFIDENTIALITY OF RECORDS POLICY

I. CONFIDENTIALITY OF PATRON RECORDS AND COURT ORDERS

A. General Guidelines

The registration and circulation records of a library are confidential. The Illinois Records Confidentiality Act 75 ILCS 70/1-2 (“the Act”) provides that confidential library records (records pertaining to an individual patron’s use of library materials or resources and registration) may not be made available in any format to a federal agent, state or local law enforcement officer, or other person without a court order. At the same time library staff must cooperate with federal, state, and local law enforcement agencies when they are acting within the scope of a lawfully issued court order.

B. Exception to Guidelines

However, 75 ILCS 70/1-2 allows an exception to the Library Records Confidentiality Act. Sworn law enforcement officers may request information in emergency situations regarding the identity of suspects, witnesses, or victims where the officer believes that there is imminent danger of physical harm, provided:

1. A sworn law enforcement officer represents to the Library that it is impractical to get a court order as a result of an emergency; and
2. The officer has probable cause to believe there is imminent danger of physical harm; and
3. The information requested is limited to identifying a suspect, witness or victim of a crime; and
4. The information requested without a court order may not include records reflecting materials borrowed, resources reviewed, or services used at the Library.

Under this exception, only information identifying a suspect, witness or victim of a crime may be disclosed to an officer without a court order; all other information remains confidential without a court order. If requested to do so by the Library, the requesting law enforcement officer must sign a form acknowledging the receipt of the information. Following compliance with the law under this exception, the Library may seek subsequent judicial review to assess compliance with this Act. Libraries are protected from patron claims that disclosure under the law constitutes a breach of confidentiality. Finally, the right of a patron to challenge the disclosure remains.

If anyone claiming to be a law enforcement official approaches a Library employee to request information, **do not disclose any information** to that individual. Requests from law enforcement officials for patron or staff information or computer files or equipment will be handled through the chain of command according to this Confidentiality of Records Policy.

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If you are not the Person in Charge of the Library, show the law enforcement official to a seat while you get the Library Director or Person in Charge. If necessary, tell the law enforcement official that s/he may not act on his/her own without violating Library policy. Go to the Person in Charge of the Library and explain the situation. Then return to your workplace and quietly and calmly continue your duties.

If you are the Person in Charge of the Library, go to the place where the law enforcement official is seated, and invite him/her to a non-public area where the official can describe his/her request to you and where s/he can wait while you carry out your responsibilities. Your correct response to the official will depend on the type of request being made. If you are unsure of the type of request, ask, "Is this a subpoena, warrant, or Foreign Intelligence Surveillance Act order?"

II. COURT ORDERS

A court order may also take the form of either a subpoena or a search warrant. A subpoena allows a period of time in which to respond to or contest the court's order. A search warrant can be executed immediately by law enforcement officials.

III. DESIGNATED CONTACT PERSON

For the purposes of this policy, the Library Director is the designated contact person and will handle all requests to search Library records pursuant to a court order. In the absence of the Director, the staff member designated as "Person in Charge" will handle the request.

IV. RESPONSIBILITIES OF THE DESIGNATED CONTACT PERSON

Upon the presentation of a request to search Library records, the designated contact person will:

- A. Notify the Midlothian Police Department if the law enforcement officials presenting themselves at the Library are from any other jurisdiction.
- B. Request identification from the law enforcement officials and record their names, badge numbers and agencies.
- C. Provide a copy of this policy to the law enforcement officials promptly upon their arrival at the Library.
- D. If the law enforcement officials do not have a court order for the information that is being requested, the designated contact will explain that the Library is forbidden by law to give access to confidential records without a court order.
- E. If the law enforcement officials represent to the Library that:
 1. There is imminent danger of physical harm;
 2. That it is impractical to get a court order as a result of an emergency;

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3. That the information requested is limited to identifying a suspect, witness or victim of a crime;
4. And that the information requested does not include records reflecting materials borrowed, resources reviewed, or services used at the Library;

Then the designated contact will cooperate with the official during the search under the provisions of 75 ILCS 70/1-2 Library Records Confidentiality Act. The designated contact will ask the requesting law enforcement officer to sign the Officer's Request for Confidential Library Information form (appended).

- F. If a court order is received, the designated contact will review the court order to determine whether it is a subpoena or a search warrant.
 1. In the case of a subpoena, the designated contact will tell the official that it will be referred to the Library Director who will respond after the subpoena is reviewed by the Library attorney.
 2. In the case of a search warrant, the designated contact will ask the law enforcement officials to wait until the Library attorney is present before beginning the search.
 3. If the officials refuse to wait, the designated contact will ask the officials to wait while he or she attempts to contact the Library attorney for guidance on complying with the order. The law enforcement officials are not required to wait until the attorney is present. However, you must be given time to read the warrant of what is to be searched and which items are to be seized. If the details are not specific, question the officer.
 4. If the officials insist on beginning the search immediately, the designated contact will cooperate with the officials during the search.
- G. The Library attorney shall be called immediately.
- H. If the Library attorney is not present during the search the designated contact will appoint another staff member to accompany the designated contact during the search.
- I. When cooperating with law enforcement officials during the search, the designated contact will help locate the records/evidence specifically identified in the court order and ensure that no other patron's records are viewed.
- J. No access will be given to any records beyond the scope of the court order, i.e., records not specifically identified in the court order. The designated contact will not volunteer or suggest any additional information beyond that specifically requested in the court order.
- K. The designated contact may communicate with other Library staff as needed to obtain the specified information. Otherwise, the contact will not discuss the search with any other individuals, staff or non-staff; doing so may subject the contact and/or the Library to serious penalties under applicable law.

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L. The designated contact will make a list of all records or evidence viewed, copied, or removed from the Library pursuant to the order.

M. If the Library Director is not present, the Person in Charge will notify the Director as soon as possible that the search has taken place.

V. DISCLOSURE OF A COURT ORDER

If the search warrant or order is issued by an FISA (Foreign Intelligence Surveillance Act) court or otherwise under a statutory provision of the USA Freedom Act, it will contain a “gag order.” This 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. No Library staff member will disclose the receipt of the court order or any information about the records sought to anyone, including the patron whose records are the subject of the search, except the Library Director and/or the Library attorney. In attempting to reach the Library Director or Library attorney do not leave the reason for your call in a voice mail message or written message. You may leave a message which states “There is an emergency situation at the Midlothian Public Library, please call me back immediately.” Any questions about the incident from the press or any other individuals should be referred to the Library Director.

VI. USA FREEDOM ACT

Public Law 114-23, commonly known as the “USA Freedom Act” became law on June 2, 2015. The USA Freedom Act, formerly known as the USA Patriot Act, contains a number of provisions intended to expedite law enforcement. Several sections of the USA Freedom Act may implicate information generated and/or retained by the Midlothian Public Library, particularly in terms of law enforcement access to Library records and the use of Library facilities for surveillance and wiretapping purposes.

VII. COMPUTER TRESPASS

Under the USA Freedom Act, owners or operators of electronic systems may authorize federal law enforcement agencies to investigate computer trespass. A “computer trespasser” is defined as the person who accesses a protected computer without authorization and, thus, has no reasonable expectation of privacy in any communication transmitted to, through, or from the protected computer and does not include a person known by the owner or operator of the protected computer to have an existing contractual relationship with the owner or operator of the protected computer for access to all or part of the protected computer.

Any Library employee who knows or believes that the Library computer system has been compromised by a computer trespasser should first report this information to the Library Director. If the Library Director would like to have a law enforcement agency investigate the matter, the Library Director will either contact the law enforcement agency or decide which Library employee should do so.

Adopted 2/2018