

George Culver Community Library Policy

POLICY: Confidentiality of Library Records

AUTHORIZED BY: Library Board of Trustees

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The Board of trustees of the George Culver Community Library recognizes that the reading activity and interests of library users are and should be private and is protected under Wisconsin Statute 43.30 as written:

43.30 Public library records.

(1b) In this section:

(ae) "Collection agency" has the meaning given in s. 218.04 (1) (a).

(ag) "Custodial parent" includes any parent other than a parent who has been denied periods of physical placement with a child under s. 767.41 (4).

(b) "Law enforcement officer" has the meaning given in s. 165.85 (2) (c).

(1m) Records of any library which is in whole or in part supported by public funds, including the records of a public library system, indicating the identity of any individual who borrows or uses the library's documents or other materials, resources, or services may not be disclosed except by court order or to persons acting within the scope of their duties in the administration of the library or library system, to persons authorized by the individual to inspect such records, to custodial parents or guardians of children under the age of 16 under sub. (4), to libraries under subs. (2) and (3), or to law enforcement officers under sub. (5).

(2) A library supported in whole or in part by public funds may disclose an individual's identity to another library for the purpose of borrowing materials for the individual only if the library to which the individual's identity is being disclosed meets at least one of the following requirements:

(a) The library is supported in whole or in part by public funds.

(b) The library has a written policy prohibiting the disclosure of the identity of the individual except as authorized under sub. (3).

(c) The library agrees not to disclose the identity of the individual except as authorized under sub. (3).

(3) A library to which an individual's identity is disclosed under sub. (2) and that is not supported in whole or in part by public funds may disclose that individual's identity to another library for the purpose of borrowing materials for that individual only if the library to which the identity is being disclosed meets at least one of the requirements specified under sub. (2) (a) to (c).

(4) Upon the request of a custodial parent or guardian of a child who is under the age of 16, a library supported in whole or part by public funds shall disclose to the custodial parent or guardian all library records relating to the use of the library's documents or other materials, resources, or services by that child.

(5)

(a) Upon the request of a law enforcement officer who is investigating criminal conduct alleged to have occurred at a library supported in whole or in part by public funds, the library shall disclose to the law enforcement officer all records pertinent to the alleged criminal conduct that were produced by a surveillance device under the control of the library.

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(b) If a library requests the assistance of a law enforcement officer, and the director of the library determines that records produced by a surveillance device under the control of the library may assist the law enforcement officer to render the requested assistance, the library may disclose the records to the law enforcement officer.

(6)

(a) Subject to par. (b) and notwithstanding sub. (1m), a library that is supported in whole or in part by public funds may report the following information as provided in par. (c):

1. Information about delinquent accounts of any individual who borrows or uses the library's documents or other materials, resources, or services.
2. The number and type of documents or materials that are overdue for each individual about whom information is submitted under subd. 1.

(b) If a public library discloses information as described in par. (a), the information shall be limited to the individual's name, contact information, and the amount owed to the library.

(c) A library may report the information as described in par. (a) to any of the following:

1. A collection agency.
2. A law enforcement agency, but only if the dollar value of the individual's delinquent account is at least \$50.

The George Culver Community Library Board interprets this statute to include all transactions associated with the use of library materials including interlibrary loans, holds records, records of reference questions, computer use, and other documents or electronic records which would link the individual with particular materials or services.

1. Any library record inquiries by someone other than the cardholder will not be honored unless the inquiring patron has the permission from that cardholder. In most cases possession of the library card is considered consent by the cardholder to divulge library records.
2. Parents or guardians who inquire about the library records of their children under the age of 16 may be asked to present reasonable evidence that they are the custodial parent or guardian. Staff may request identification or any other set of documents that demonstrates to the library's satisfaction that the requester is the custodial parent or guardian of the child whose records have been requested. The custodial parent or guardian in this policy has the following meaning:
 - a. If the mother and father are married, either is considered a custodial parent.
 - b. If the mother and father are not married but each has periods of physical placement under a court order, either parent is a custodial parent.
 - c. If the mother and father are not married and there is a court order awarding physical placement solely to one of the parents, that person is the custodial parent.
 - d. If the parties are not married and there is no court order regarding physical custody, the parent with whom the child resides is the custodial parent.
3. It is the policy of the Library to contact legal counsel immediately and to resist the issuance or enforcement of any such process, order, or subpoena until such time as a proper

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showing of good cause has been made in a court of competent jurisdiction. Requests for registration and circulation information by law enforcement officials should be referred to the Director or designee.

Among other provisions, the USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism):

1. authorizes the FBI, or any police department deputized by the FBI, to obtain a search warrant for “any tangible thing” which can include books, records, papers, floppy disks, data tapes and computers with hard drives. It permits the FBI to compel immediate production of records from a library including circulation, borrower registration, and Internet usage records, without probable cause, (but with a search warrant)
2. prohibits a library employee who receives such a request under the law from talking with anyone, except an attorney about the request (search warrant from the Foreign Intelligence Act includes a “gag order”)
3. prohibits notification to a patron that his/her records have been requested
4. pre-empts and overrides all state laws declaring library records to be confidential.

The George Culver Community Library uses several measures to maintain the privacy of our patrons:

1. The library does not keep any records relating to patrons that contain personally identifiable information, which are unnecessary to the efficient operation of the Library.
2. The library keeps records of internet usage only long enough to record a usage count.
3. The South Central Library System will not save online catalog searches or Interlibrary loan requests.

I. Staff Procedures

A. For custodial parent or guardian requests:

- When parents or guardians inquire about their children’s library records, library staff will answer as required by Wisconsin statute 43.30.
- Staff should take reasonable measures to ensure that the inquiring patron is the custodial parent or guardian of the juvenile. (Juvenile is a child under the age of 16.) This may include verifying that the addresses of both parties match.
 - If the parent or guardian has the child’s card, it is considered consent.
 - If the parent or guardian has a library card and it is determined that the addresses for parent and child match.
 - If the parent or guardian doesn’t have a library card or doesn’t have it with them, then a government issued picture ID may be used to determine address match.
 - The library staff will accept any other set of documents that demonstrates to the library staff’s satisfaction that the requester is the custodial parent or guardian of the child.

B. Patriot Act Considerations

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1. If anyone approaches staff alleging to be a law enforcement official requesting information, staff will immediately contact the director or designee. Staff will not disclose any information to that individual.
2. The director or designee will ask to see official identification.
3. Subpoenas: If the law enforcement official presents a subpoena, the library director will contact the Village attorney or other legal counsel for advice on how best to proceed. It is desirable for legal counsel to be present when the subpoena is executed.
4. Search Warrants: If the law enforcement official presents a search warrant, it is executable immediately. The library director will notify legal counsel and will attempt to have legal counsel present during the search to be sure that the search conforms to the terms of the warrant. If time does not allow for this, the search must be allowed to proceed. The library director or designee will 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. Library staff should not interfere with the search and/or seizure of library property.
 - a. If the search warrant is issued by a FISA (Foreign Intelligence Surveillance Act) court, it contains a gag order. 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.
 - b. A gag order does not change a library's rights to legal representation during the search. The library can still seek legal advice concerning the warrant and request that the library's legal counsel be present during the actual search and execution of the warrant.

**Order or court order*

n. every direction or mandate of a judge or a court which is not a judgment or legal opinion (although both may include an order) directing that something be done or that there is prohibition against some act. This can range from an order that a case will be tried on a certain date, to an order that a convicted defendant be executed at the state prison.

***Subpoena*

(subpoena): n. an order of the court for a witness to appear at a particular time and place to testify and or produce documents in the control of the witness (if a "subpoena duces tecum"). A subpoena is used to obtain testimony from a witness at both depositions (testimony under oath taken outside of court) and at trial. Subpoenas are usually issued automatically by the court clerk but must be served personally on the party being summoned. Failure to appear as required by the subpoena can be punished as contempt of court if it appears the absence was intentional or without cause.

****Search warrant*

An order signed by a judge that directs owners of private property to allow the police to enter and search for items named in the warrant.