King County Law Library Policy on Confidentiality of Library Records

Objective:

1. Privacy is essential to the exercise of free speech, free thought, and free association. In a library, the right of privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others.

    1.1. The Board of Trustees of the King County Law Library hereby adopts the following policy regarding the confidentiality of patron records and files, consistent with RCW 42.17.310 (1) (l) and the Policies on Confidentiality of Library Records and the Confidentiality of Personally Identifiable Information adopted by the Council of the American Library Association.

    1.2 All library records, whose primary purpose is to maintain control of library materials, or to gain access to information, which disclose or could be used to disclose the identity of library users are confidential in nature. These include all library circulation records and other records linking the names of library patrons, their addresses and other personal information with specific materials, online sites, and resources they access.

Responsibility:

2. The King County Law Library Board of Trustees authorizes the library director to act as the library official who will examine its record keeping procedures to assure that records identifying library users are limited to those essential for library operation. The library director will see that the library staff receives appropriate training to implement the policy and will see that the library's policy is enforced.

Criteria:

3. Library staff members and volunteers shall protect information about library patrons and their requests for information and materials.

    3.1 Such patron records and files shall not be made available to any individual, organization or to any agency of federal, state or local government except as provided in Section 4 below or otherwise pursuant to legislative investigatory power or process, order or subpoena authorized by a judge under federal, state or local law relating to civil, criminal or administrative discovery procedures.

3.2 Requests for patron record information made by any agency of federal, state or local government including, but not limited to, law enforcement agencies shall be referred to the library director and the library's legal counsel.

Circumstances, if any under which records will be released:

4. Notwithstanding the foregoing:

4.1 Any patron is entitled to information regarding his or her own items on loan, items on hold, items overdue and fines. No information will be released to a patron by the library without verification of their subscriber account status.

4.2 With the prior approval of the library director, names and addresses extracted from patron records and files may be used from time to time by the library for purposes of conducting user surveys or to notify users of upcoming events, new services, or library initiatives. In each such case, care will be taken to prevent the information from being misused or misappropriated. The library will allow patrons to express their desire not to receive such information and the library will reasonably attempt to honor those wishes.

4.3 When library staff observe what they believe to be a crime, a threat to public safety, or a violation of library policies, library staff may contact courthouse security or other law enforcement officials and disclose as necessary, identifying information including information described in paragraph 1.2 above.

Procedures:

5. A library staff member receiving a request to examine or obtain information relating to library circulation records and other records linking the names of library patrons, their addresses and other personal information with specific materials, online sites, and resources they access will respond to the request in the following manner.

During the visit:

5.1 Staff should immediately ask for identification if they are approached by an agent or officer. Staff should then immediately refer the agent or officer to the library director, or in the absence of the director, to the library's legal counsel.

5.2 The library director should meet with the agent or officer with the library's legal counsel or another colleague in attendance.

5.3 If the agent or officer does not have a court order as described in paragraph 3.1 above compelling the production of records, the library director should explain the library's confidentiality policy and the Washington confidentiality of library records provision at RCW 42.17.310 (1) (l) and inform the agent or officer that the user's records are not available except when a proper judicial order from a court of competent jurisdiction has been properly served on the library.

5.4 Without a court order, neither federal, state or local law enforcement has the authority to compel cooperation with an investigation or require answers to questions, other than the name and address of the staff member speaking to the agent or officer. If the agent or officer persists, or makes an appeal to patriotism, the library director will explain that the library staff will not respond to requests for confidential information, in conformity with library policy, First Amendment freedoms, and state law.

5.5 Threats or unauthorized demands (i.e., not supported by a process, order or subpoena) concerning library circulation records and other records linking the names of library patrons, their addresses and other personal information with specific materials, online sites, and resources they access, will be reported by the library director to the library's legal counsel.

5.6 Upon receipt of process, order or subpoena from an agent or officer, the library director or the director's designee will immediately refer the process, court order or subpoena to the library's legal counsel for review.

5.7 The library's legal counsel will examine the service of process, order or subpoena for any legal defect, including the manner in which it was served on the library, the breadth of its request, its form, or for an insufficient showing of good cause made to the court. If a defect exists, the counsel will advise on the best method to resist the service, order or subpoena including, but not limited to, filing a motion to quash the subpoena or filing a motion for a protective order.

5.8 If the court order is a subpoena, the library's legal counsel will insist that any defect be cured before records are released and that the subpoena be strictly limited to require release of specifically identified records or documents. The legal counsel will require that the agent, officer, or party requesting the information submit a new subpoena in good form and without defects.

5.9 If the court order is a subpoena issued by a King County law enforcement official whose legal representation is provided by the King County Prosecutor's

office, the library's legal counsel will take steps to ensure there will be no conflict of interest in providing assistance to both the law library and the law enforcement officer or will secure outside legal counsel for the library in the matter of the subpoena.

5.10 The library director and the library legal counsel will review the information that will be produced in response to the subpoena before releasing the information. The library director will create and maintain a record of the items released pursuant to the subpoena. The subpoena will be followed strictly to ensure that the library does not provide any information that has not been specifically requested in the subpoena.

5.11 If disclosure is required, the legal counsel will ask the court to enter a protective order keeping information confidential, limiting its use to the particular case, and restricting access to only those persons working directly on the case.

5.12 If the court order received by the library is in the form of a search warrant, the search warrant will be executable immediately. Staff should not interfere with the search or seizure, but should contact the library director or library legal counsel immediately. The agent or officer may begin a search of library records as soon as the library is served with the search warrant, but the library director or staff member should ask to have library counsel present before the search begins 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. If the request is denied, the library director or staff member will allow the search to begin immediately. The staff will cooperate with the search so that only the records identified in the warrant are produced and so that no other users' records are viewed or scanned.

5.13 If the court order is a search warrant issued under the Foreign Intelligence Surveillance Act (FISA) (USA Patriot Act amendment), the recommendations for a regular search warrant still apply. However, a search warrant issued by a FISA court will also contain a "gag order." A gag order will prevent any staff member and the library itself from disclosing that the warrant has been served or that records have been produced pursuant to the warrant. No information can be disclosed to any other party, including the patron whose records are the subject of the search warrant. The library director will still seek legal advice concerning the warrant and can request that the library's legal counsel be present during the actual search and execution of the warrant.

After the visit:

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5.14 The library director will review the court order with library counsel to ensure that the library complies with any remaining requirements, including restrictions on sharing information with others. The library director and the Library Board will review library policies and staff response and make any necessary revisions in light of the experience. The library director will be prepared to communicate with the media by developing a public information statement detailing the principles upholding library confidentiality.

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