

Confidentiality of Library Records

Introduction

The Patrick Heath Public Library (referred to as “library”) is a central resource where information and differing points of view are available. Library patrons are free to use the library and its materials and services without government, community, or individual interference, in accordance with existing library policy.

Policy

Records of this library that identify, or serve to identify, a person who requests, obtains, or uses library materials or services are confidential and are exempted from required disclosure under the Texas Public Information Act, Local Government Code Chapter 552. Certain exceptions apply.

Exceptions:

Such records may be disclosed if:

- a) The library determines that disclosure is reasonably necessary to the operation of the library and the records are not confidential under other state or federal law.
- b) The records are released to the person, or the person’s authorized representative, to whom the information relates.
- c) The records are required under a valid court order, subpoena, or as provided for under the provisions of the Texas Public Information Act.

Except as identified above, library staff and volunteers will not provide a patron’s personally identifiable information to anyone other than the patron, who may be asked to verify his or her identity. Examples include: titles of items checked out, overdue or on reserve; addresses; phone numbers; or any other personal information. When a patron is unable to confirm his or her identity as required, a printout of the requested information may be mailed to the patron using the mailing address provided in the library’s registration records.

Information such as number of items checked out or fines amount are not considered confidential and may be disclosed.

The library record of a minor has the same confidentiality protection under library policy as that of any other patron. The library allows parents, legal guardians, or adult sponsors (individuals who are 17 years old or older and assumed financial responsibility for materials checked out under the

minor's card) to obtain specific information about the minor child's library records when materials are overdue or lost.

General Guidelines in Implementing This Policy

Confidentiality of library records is a basic principle and ethical responsibility of librarianship. As a matter of policy or procedure, the Library Director should insure that:

He/she consults with the City Attorney to make the City Attorney aware of policy and agree to its interpretation.

The library staff and library advisory board are familiar with the library confidentiality policy.

The library staff and governing body are familiar with the ALA Policy on Confidentiality of Library Records, the ALA Code of Ethics, the Policy Concerning Confidentiality of Personally Identifiable Information about Library Users, and the library confidentiality article of the Texas Public Information Act.

The library staff is familiar with and is required to follow the "specific guidelines" set forth below.

Specific Guidelines in Implementing This Policy

Library operating procedures have an impact on confidentiality. In order to bring this library into compliance with the Texas Public Information Act this library will observe the following procedures:

Avoid unnecessary records. Only record a user's personally identifiable information when necessary for the efficient operation of the library.

Avoid retaining records that are not needed for efficient operation of the library. Check with City of Boerne officials to determine record retention requirements and destroy records accordingly.

Eliminate any confidential information that may be on public view. For example, avoid the following: overdue notices or filled-request notices mailed on postcards; listing the names of patrons with overdue amounts owed; listing the names of patrons with items on reserve; or listing public computer reservations. Library staff should close out a patron's computer record as soon as the transaction is concluded. Use reasonable care when providing patron information over the phone, e.g. titles of interlibrary loans or items on reserve. Always confirm patron identification. When leaving a phone

message, don't record anything specific regarding patron information, e.g., titles of items checked out, items overdue or items on reserve.

In the interest of an individual's privacy and protection library staff will not reveal whether they know if a person has visited the library or is at the library at that time. Additionally, staff will never share a patron's identity or account information with another patron when checking the status of an item.

Requests for Information

The library staff member receiving the request to examine or obtain information relating to circulation or other records identifying the names of library patrons will immediately refer the person making the request to the Library Director.

The Library Director, upon receipt of such warrant, process, order, or subpoena, shall consult with the City Attorney to determine if such warrant, process, order, or subpoena is valid and enforceable.

If the warrant, process, order, or subpoena is not valid and enforceable, insistence shall be made that such defects be rectified before any records are released.

Any threats or unauthorized demands (i.e., those not supported by a warrant, process, order, or subpoena) concerning circulation and other records identifying the names of library patrons shall be reported to the City Attorney.

Any problems relating to the privacy of circulation and other records identifying the names of library patrons which are not provided for above shall be referred to the City Attorney.

Attachments to Policy:

1. ALA Policy on Confidentiality of Library Records
2. ALA Code of Ethics
3. ALA Policy Concerning Confidentiality of Personally Identifiable Information about Library Users
4. Texas Public Information Act-Section 552.124

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Policy on Confidentiality of Library Records

The Council of the American Library Association strongly recommends that the responsible officers of each library, cooperative system, and consortium in the United States:

1. Formally adopt a policy that specifically recognizes its circulation records and other records identifying the names of library users to be confidential. (See also [ALA Code of Ethics](#), Article III, "We protect each library user's right to privacy and confidentiality with respect to information sought or received, and resources consulted, borrowed, acquired or transmitted" and [Privacy: An Interpretation of the Library Bill of Rights](#).)
2. Advise all librarians and library employees that such records shall not be made available to any agency of state, federal, or local government except pursuant to such process, order or subpoena as may be authorized under the authority of, and pursuant to, federal, state, or local law relating to civil, criminal, or administrative discovery procedures or legislative investigative power.
3. Resist the issuance of 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.¹

¹Note: Point 3, above, means that upon receipt of such process, order, or subpoena, the library's officers will consult with their legal counsel to determine if such process, order, or subpoena is in proper form and if there is a showing of good cause for its issuance; if the process, order, or subpoena is not in proper form or if good cause has not been shown, they will insist that such defects be cured.

Adopted January 20, 1971, by the ALA Council; amended July 4, 1975; July 2, 1986.

Code of Ethics of the American Library Association

As members of the American Library Association, we recognize the importance of codifying and making known to the profession and to the general public the ethical principles that guide the work of librarians, other professionals providing information services, library trustees and library staffs.

Ethical dilemmas occur when values are in conflict. The American Library Association Code of Ethics states the values to which we are committed, and embodies the ethical responsibilities of the profession in this changing information environment.

We significantly influence or control the selection, organization, preservation, and dissemination of information. In a political system grounded in an informed citizenry, we are members of a profession explicitly committed to intellectual freedom and the freedom of access to information. We have a special obligation to ensure the free flow of information and ideas to present and future generations.

The principles of this Code are expressed in broad statements to guide ethical decision making. These statements provide a framework; they cannot and do not dictate conduct to cover particular situations.

- I. We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.
- II. We uphold the principles of intellectual freedom and resist all efforts to censor library resources.
- III. We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.
- IV. We respect intellectual property rights and advocate balance between the interests of information users and rights holders.
- V. We treat co-workers and other colleagues with respect, fairness, and good faith, and advocate conditions of employment that safeguard the rights and welfare of all employees of our institutions.
- VI. We do not advance private interests at the expense of library users, colleagues, or our employing institutions.
- VII. We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.
- VIII. We strive for excellence in the profession by maintaining and enhancing our own knowledge and skills, by encouraging the professional development of co-workers, and by fostering the aspirations of potential members of the profession.

Adopted at the 1939 Midwinter Meeting by the ALA Council; amended June 30, 1981; June 28, 1995; and January 22, 2008.

Policy concerning Confidentiality of Personally Identifiable Information about Library Users

"In a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf" ([Privacy: An Interpretation of the Library Bill of Rights](#)).

The ethical responsibilities of librarians, as well as statutes in most states and the District of Columbia, protect the privacy of library users. Confidentiality extends to "information sought or received and resources consulted, borrowed, acquired or transmitted" ([ALA Code of Ethics](#)), and includes, but is not limited to, database search records, reference interviews, circulation records, interlibrary loan records and other personally identifiable uses of library materials, facilities, or services.

The First Amendment's guarantee of freedom of speech and of the press requires that the corresponding rights to hear what is spoken and read what is written be preserved, free from fear of government intrusion, intimidation, or reprisal. The American Library Association reaffirms its opposition to "any use of governmental prerogatives that lead to the intimidation of individuals or groups and discourages them from exercising the right of free expression as guaranteed by the First Amendment to the U.S. Constitution" and "encourages resistance to such abuse of governmental power . . ." ([ALA Policy 53.4](#)). In seeking access or in the pursuit of information, confidentiality is the primary means of providing the privacy that will free the individual from fear of intimidation or retaliation.

The American Library Association regularly receives reports of visits by agents of federal, state, and local law enforcement agencies to libraries, asking for personally identifiable information about library users. These visits, whether under the rubric of simply informing libraries of agency concerns or for some other reason, reflect an insensitivity to the legal and ethical bases for confidentiality, and the role it plays in the preservation of [First Amendment](#) rights, rights also extended to foreign nationals while in the United States. The government's interest in library use reflects a dangerous and fallacious equation of what a person reads with what that person believes or how that person is likely to behave. Such a presumption can and does threaten the freedom of access to information. It also is a threat to a crucial aspect of First Amendment rights: that freedom of speech and of the press include the freedom to hold, disseminate and receive unpopular, minority, extreme, or even dangerous ideas.

The American Library Association recognizes that law enforcement agencies and officers may occasionally believe that library records contain information that would be helpful to the investigation of criminal activity. The American judicial system provides the mechanism for seeking release of such confidential records: a court order, following a showing of *good cause* based on *specific facts*, by a court of competent jurisdiction.¹

The American Library Association also recognizes that, under limited circumstances, access to certain information might be restricted due to a legitimate national security concern. However, there has been no showing of a plausible probability that national security will be compromised by any use made of unclassified information available in libraries. Access to this unclassified information should be handled no differently than access to any other information. Therefore, libraries and librarians have a legal and ethical responsibility to protect the confidentiality of all library users, including foreign nationals.

Libraries are one of the great bulwarks of democracy. They are living embodiments of the First Amendment because their collections include voices of dissent as well as assent. Libraries are impartial resources providing information on all points of view, available to all persons regardless of origin, age, background, or views. The role of libraries as such a resource must not be compromised by an erosion of the privacy rights of library users.

1 See [Suggested Guidelines:How to Respond to Law Enforcement Requests for Library Records and User Information](#), excerpted from the *Intellectual Freedom Manual, 9th Edition*

Adopted July 2, 1991, by the ALA Council; amended June 30, 2004.

Texas Public Information Act

Sec. 552.124. EXCEPTION: CONFIDENTIALITY OF RECORDS OF LIBRARY OR LIBRARY SYSTEM. (a) A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from the requirements of Section 552.021 unless the record is disclosed:

(1) because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law;

(2) under Section 552.023; or

(3) to a law enforcement agency or a prosecutor under a court order or subpoena obtained after a showing to a district court that:

(A) disclosure of the record is necessary to protect the public safety; or

(B) the record is evidence of an offense or constitutes evidence that a particular person committed an offense.

(b) A record of a library or library system that is excepted from required disclosure under this section is confidential.

Added by Acts 1995, 74th Leg., ch. 76, Sec. 5.03(a), eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1035, Sec. 11, eff. Sept. 1, 1995.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1229 (S.B. [602](#)), Sec. 16, eff. September 1, 2011.

Sec. 552.023. SPECIAL RIGHT OF ACCESS TO CONFIDENTIAL INFORMATION. (a) A person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests.

(b) A governmental body may not deny access to information to the person, or the person's representative, to whom the information relates on the grounds that the information is considered confidential by privacy principles under this chapter but may assert as grounds for denial of access other provisions of this chapter or other law that are not intended to protect the person's privacy interests.

(c) A release of information under Subsections (a) and (b) is not an offense under Section 552.352.

(d) A person who receives information under this section may disclose the information to others only to the extent consistent with the authorized purposes for which consent to release the information was obtained.

(e) Access to information under this section shall be provided in the manner prescribed by Sections 552.229 and 552.307.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 25, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1377 (S.B. [1182](#)), Sec. 12, eff. September 1, 2009.

<http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm>