

May 27, 2008

Pikes Peak Library District Confidentiality Policy

Overview

The Pikes Peak Library District protects the privacy of library records and the confidentiality of patron use of the library as required by relevant laws. The Pikes Peak Library Board of Trustees 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.

Colorado Privacy of User Records (CRS (24-90-119))

1. Except as set forth in subsection (2) of this section, a publicly supported library shall not disclose any record or other information that identifies a person as having requested or obtained specific materials or service or as otherwise having used the library.
2. Records may be disclosed in the following instances:
 - a. When necessary for the reasonable operation of the library;
 - b. Upon written consent of the user;
 - c. Pursuant to subpoena, upon court order, or where otherwise required by law;
 - d. To a custodial parent or legal guardian who has access to a minor's library card or its authorization number for the purpose of accessing by electronic means library records of the minor.
3. Any library official, employee, or volunteer who discloses information in violation of this section commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars.

Inquiries from Law Enforcement Officials

- **Inquiry from Law Enforcement Officer or Agent without a Court Order**

Without a court order the agent or officer does not have the authority to compel cooperation with an investigation.

Direct the law enforcement officer to the Director or to one of the Associate Directors in the Director's absence.

The Director will explain the library's confidentiality policy and the state's confidentiality law.

- **Law Enforcement Officer or Agent Presents a Subpoena**

Direct the law enforcement officer or agent to the Director or to an Associate Director in the Director's absence.

The Director will ask the library's legal counsel to examine the subpoena for any legal defect, including the manner in which it was served on the library, the breadth of the request, its form, or an insufficient showing of good cause made to a court.

Library staff will follow the subpoena strictly so that only information that is specifically requested is provided.

- **Law Enforcement Officer or Agent Presents a Search Warrant**

Direct the law enforcement officer or agent to the Director or to one of the Associate Directors in the Director's absence. The search warrant is "executable immediately" which means the agent or officer may begin a search of library records as soon as the director is served with the court's order.

The Director will ask to have library counsel present before the search begins to allow the counsel to examine the search warrant and to assure that the search conforms to the terms of the search warrant. The law enforcement officer does not have to agree to the presence of the Library's counsel.

Library staff will cooperate with the search to ensure that only records identified in the warrant are produced and that no other users' records are viewed.

- **Law Enforcement Officer or Agent Presents a Subpoena or a Search Warrant Issued Under the Foreign Intelligence Surveillance Act (FISA (USA Patriot Act amendment))**

Follow the same procedures listed under presentation of a regular subpoena or search warrant. However, subpoenas and search warrants issued by a FISA court also contain a “gag order”. This means that no staff member or institution can disclose that the warrant was served or that records have been produced pursuant to the warrant. The library and its staff must comply with this order.

If it is a FISA subpoena, then the FISA judge is supposed to fix a “time to respond”, which may be a period of days or may be immediately. FISA warrants are executable immoderately. No information can be disclosed to any other party including the patron whose records are the subject of the search.

The gag order does not change a library’s right to legal representation during the search. The library can still seek legal advice concerning the court order and request that the library’s legal counsel be present during the actual search and execution of the court order.

- **If the order is a National Security Letter (NSL) issued under Section 505 of the USA Patriot Act**

The recommendations for a regular subpoena still apply. However, like an FISA order, a NSL also contains a gag order. The gag order does not prevent consultation with legal counsel.

The library director can still request that the library’s legal counsel be present during the search.

Exigent Circumstances:

In the event that someone’s life is at risk, library records may be released to the appropriate individuals of officials without a court order. If it is necessary to release patron records for an emergency, notify the Executive Director as soon as possible.