

## **William Fogg Public Library Information Privacy and Confidentiality**

The U.S. Constitution's First Amendment guarantees freedom of speech and of the press. It allows individuals the right to hear what is spoken and read what is written free from fear of government intrusion, intimidation, or reprisal. State of Maine statutes provide that in regards to public municipal libraries information relating to the identity of a library patron relative to their use of books and other material at the library is confidential." (Chapter 4-A, 27 M.R.S. Section 121) The American Library Association reaffirms First Amendment rights and state statutes by standing firm against "any use of government prerogatives which lead to the intimidation of the individual or the citizenry from the exercise of free expression" (ALA Policy 53.4).

The William Fogg Public Library ("WFPL"), like public libraries across America, embodies the First Amendment by providing public access to resources reflecting information on different points of view. It makes this information available in a variety of formats to persons regardless of age, race, religion, national origin, social or political views, economic status, or any other characteristic. The WFPL protects open access to resources by upholding the privacy and confidentiality of individuals, including foreign nationals, who use the library.

### **Protecting Privacy and Confidentiality**

All WFPL records that pertain to a user's use of the facility, equipment and resources are held in confidence and not made public. This relates to any records or information provided by users in order to become eligible to borrow materials, and any information which identifies the library user's borrowing or using particular books or other material. These records may be consulted and used by WFPL staff in the course of carrying out library operations, but will not be disclosed to others except upon the request or consent of the library user, or pursuant to subpoena, court order or as otherwise required by law. (See guidelines below)

WFPL recognizes its legal obligations to comply with information requested through legitimate means as specified in the *United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act*, commonly known as the USA Patriot Act, approved by Congress in October 2001.

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### **Information Collected**

Because protecting the privacy and confidentiality of patrons' personal information is so important, WFPL collects only that information necessary to conduct efficient and effective library services.

This information includes:

- Name
- Address
- Email address
- Phone number
- Parent's name/phone number (for a child's card)
- Fine amount paid on the last overdue transaction
- Most recent borrowing information retained (item records after check-in)
- Library card number
- Date/year of birth (card registration only)
- Materials currently checked out
- Overdue materials (until returned)
- Contact person

#### **Electronic Resources**

- **Website.** When accessing the WFPL's website, a visitor's 1) computer or internet provider address (IP), 2) date and time accessed, and 3) internet address of the website that referred the visit to WFPL's website are collected. This information is used to measure usage of the website and assists in making the site more useful to users.
- **Internet and Other Computer Resources.** Personally identifiable usage information related to computer searches is automatically collected in "temporary internet files," "history," and "cookies" folders. Internet management software used by WFPL maintains logs that contain information about who accesses which computer, when and for how long. All these folders and logs are purged automatically each day, which makes no personally identifiable information available for retrieval after that time.

#### **Reference**

Information related to reference services includes enough personal identifiable information to answer reference queries and requests. This information is not stored and is purged on a daily basis.

## **Confidentiality of Library Records and Law Enforcement Inquiries**

The U.S. and State of Maine Constitutions and laws, professional ethics, and WFPL policy protect the privacy of individuals using the WFPL. The guidelines below assist board of trustees and staff members in dealing with situations when law enforcement agents, including officer's local and state police departments, county sheriff's departments and FBI agents, request confidential personal information on patrons which is in WFPL's possession.

Confidential library records in any format shall not be released or made available unless a court order in proper form has been entered in a court of competent jurisdiction after showing good cause by the law enforcement agency or person seeking the records. If a law enforcement official visits WFPL and requests confidential information that is considered by WFPL to be protected:

- Staff immediately asks for identification and refers the agent or officer to WFPL director or person in charge in the absence of the director, and
- The director and agent/officer meets with the WFPL counsel. If WFPL counsel is not available, the director meets with the agent/officer and with another library staff member in attendance, and
- If the agent/officer does not have a court order compelling the production of records, the director explains WFPL's confidentiality policy and the state's confidentiality law. The agent/officer is informed that patron records are not available except when a proper court order in good form has been presented to the library.

### **Court Orders**

*Without a court order, neither the FBI nor other law enforcement authority has the authority to force cooperation with an investigation or require answers to questions, other than the name and address of the director or person speaking to the officer/agent. If the agent/officer persists, or makes an appeal to patriotism, the director explains that, as good citizens, the library will not respond to informal requests for confidential information, in conformity with professional ethics, First Amendment freedoms, and state law.*

### **Court Orders and Corresponding Actions**

1. If WFPL is served with a court order in the form of a *subpoena*:
  - The WFPL's legal counsel should examine the subpoena for any legal defect. If it is legal counsel's opinion that there was a defect in the manner in which the court order was served

on the library, its form, or insufficient showing of good cause made to a court, counsel will advise the library on the best method to resist the subpoena.

- Through its legal counsel, WFPL shall insist that any defect be cured before records are released and that the subpoena is strictly limited to require release of specifically identified records or documents, and
- WFPL shall require that the agent, officer, or party requesting the information submit a new subpoena in good form and without defects, and
- WFPL shall review the information that maybe produced in response to the subpoena before releasing the information. WFPL shall follow the subpoena strictly and do not provide any information that is not specifically requested in it.
- If WFPL is required to disclose the information requested, WFPL shall ask the court to enter a protective order that is drafted by the WFPL's legal counsel to keep the information confidential, limit its use to the particular case, and restrict access to those persons working directly on the case.

2. If WFPL is served with a court order in the form of a *search warrant*:

*Note: Unlike a subpoena, a search warrant is executable immediately. The agent/officer may begin a search of WFPL's records as soon as the WFPL's director or staff member in charge is served with the search warrant.*

- WFPL shall ask to have WFPL's counsel present before the search begins in order to allow WFPL's counsel an opportunity to examine the search warrant and to assure that the search to be executed conforms to the terms of the search warrant, and
- WFPL shall ask to allow WFPL's Library Director to be the person to retrieve any computerized records from WFPL's system, and
- WFPL shall 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.

3. If WFPL is served with a court order in the form of a *search warrant issued under the Foreign Intelligence Surveillance Act (FISA)* (Patriot Act amendment):

*Note: Only the FBI can secure FISA search warrants. These search warrants can require that the library turn over "any tangible thing," which includes papers, records, computers with hard drives, and back up tapes. FISA carries with it a "gag order." Library staff and Board must comply with this order. No information can be disclosed to any other party, including the person whose records are the subject of the search warrant. However, the FISA gag order does not*

*change the library's right to legal representation. The library can request that legal counsel advice, and that legal counsel be present during the actual search and execution of the warrant.*

- WFPL shall follow guidelines related to a search warrant, and
- WFPL shall ask agents/officers to wait until WFPL's legal counsel is available to review the court order, with an agreement that the evidence in question will be preserved until that time. Although the agents don't have to wait, they may agree. If they do agree, contact legal counsel immediately, and
- WFPL shall not disclose to anyone, including the person whose records are being searched and the press, that the warrant has been served or that records have been produced pursuant to the warrant. The only exceptions to this gag order are WFPL's legal counsel, staff and Board of Trustees.

[These policy and guidelines were prepared with the assistance and permission from the American Library Association website.]

*Debra McCrossin*  
as Trustee

*8-9-2017*

*Peter Bennett*  
Trustee

*8-9-2017*

*Stephen R. Beckett*  
Trustee

*8-9-2017*