

POLICY 004
CONFIDENTIALITY OF LIBRARY RECORDS

The Hewlett-Woodmere Public Library, its Board of Trustees, management and staff affirm the confidentiality of Library records in accordance with Section 4509 of the Civil Practice Law and Rules of the State of New York, as added in 1982 and amended in 1988.

Section 4509

Library records, which contain names or other personally identifying details regarding the users of public, free association, school, college and university libraries and library systems of this state, including but not limited to records related to the circulation of library materials, computer database searches, interlibrary loan transactions, reference queries, requests for photocopies of library materials, title reserve requests, or the use of audio-visual materials, films or records, shall be confidential and shall not be disclosed except that such records may be disclosed to the extent necessary for the proper operation of such library and shall be disclosed upon request or consent of the user or pursuant to subpoena, court order or where otherwise required by statute.

Board of Library Trustees

Adopted: September 13, 1999

LAW ENFORCEMENT INQUIRIES AND THE CONFIDENTIALITY OF LIBRARY RECORDS

Procedure:

The Board of Library Trustees has designated the Library Director as the person responsible for handling law enforcement inquiries. In the absence of the Library Director, the Librarian in charge of the building bears this responsibility. This procedure recognizes that it is lawful to refer the agent or officer making an inquiry to the Library Director or Librarian in charge of the building, and that, generally, an immediate response to a request is not necessary. The Librarian in charge should try to contact the Director or the Assistant Director should such an inquiry be made.

All staff members must be aware of the following general procedures:

- If anyone approaches a staff member alleging to be a law enforcement official requesting information, DO NOT DISCLOSE ANY INFORMATION.
- Immediately refer the person to the Library Director or Librarian in charge of the building.
- The Director or Librarian in charge, accompanied by another staff member, will meet with the agent, and will request identification as well as documentation (subpoena, search warrant, National Security Letter) authorizing the inquiry.

If the agent does not have documentation, the Board's policy citing the state's confidentiality law should be explained. A copy of this policy is in the policy manual located at all public service desks. (Policy 004: Confidentiality of Library Records)

If the agent does not have documentation, there is no authority to compel cooperation with an investigation or require answers to questions (other than the name and address of the person speaking with the agent).

If the agent does present a court order, that order should be immediately referred the Library's legal counsel for review.

IF THE COURT ORDER IS IN THE FORM OF A SUBPOENA:

- Library Counsel will examine the subpoena for any legal defect including the manner in which it was served on the Library, the breadth of its request, its form, or an insufficient showing of good cause made to a court.
- If a defect exists, the Director or Librarian-in-charge, through Library Counsel, will insist that the defect be cured and that a new subpoena without defect and in good form be presented before records are released.
- The Director or Librarian-in-charge will review the information that may be produced in response to the subpoena before releasing the information. Only the information specifically requested by the subpoena will be released.
- If disclosure is required, the Library's Counsel will draft a request to the court to enter a protective order keeping the information confidential and limiting its use to the particular case. The document will ask that access be restricted to those persons working directly on the case.

IF THE COURT ORDER IS IN THE FORM OF A SEARCH WARRANT:

- Search warrants are executable immediately. The Library Director or Librarian in charge will ask to have Library Counsel present to examine the warrant but such a request may not be granted.
- The Library Director or Librarian in charge will gather the records identified in the search warrant and present them. Non-library personnel will not be allowed to peruse the Library's records including electronic records.

IF THE COURT ORDER IS A SEARCH WARRANT ISSUED UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT (FISA) (USA PATRIOT ACT AMENDMENT):

- **Such a search warrant is executable immediately.**
- A "gag order" is contained in such a warrant – no person or institution served with such a warrant can disclose that the warrant has been served or that records have been produced pursuant to the warrant.
- The Library must comply with such a warrant. No information may be disclosed to any other party, including the Director if not present at the time the warrant is served and the patron whose records are subject to the search warrant.
- The Library maintains the right to legal representation during the search, and can still seek legal advice during the actual search and execution of the warrant.

IF THE COURT ORDER IS A NATIONAL SECURITY LETTER:

- **Such a court order is executable immediately.**
- The procedure is the same as a search warrant issued under FISA.
- A "gag order" applies.
- The Director or Librarian in charge will contact Library Counsel.
- The Director or Librarian in charge will request that Counsel be present during the search, but law enforcement may choose to proceed without Library Counsel being present. The Library must comply.

Presented to Library Board for review: September 20, 2004
ADOPTED, BOT, October 12, 2004