

## POLICY ON PRIVACY AND REQUESTS FOR PATRON INFORMATION

The J. V. Fletcher Library adheres to the American Library Association (ALA) Code of Ethics which includes the following statement: "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." The J. V. Fletcher Library is also subject to Massachusetts General Law Chapter 78, Section 7, which states, "that part of the records of a public library which reveals the identity and intellectual pursuits of a person using such library shall not be a public record." J. V. Fletcher Library staff must strive to protect the confidentiality of patron records. Accordingly, technological records at the network level will be maintained a minimum period of time and local paper records will be shredded after statistics or data has been obtained. No staff member shall, at any time, disclose any personally identifiable patron or user records including, but not limited to, circulation records, patron registration records, patron e-mail and computer records, interlibrary loan requests, holds or reference requests, to any person other than the patron, unless:

1. the patron has given informed consent (in writing) for another individual to obtain that information;
2. an authorized person (J. V. Fletcher Library staff) requires that information for retrieval of overdue materials or compensation for damaged or lost library's materials;
3. a law enforcement official makes the request.

### RESPONDING TO A REQUEST FROM A LAW ENFORCEMENT OFFICIAL:

- Staff who are approached by anyone alleging to be a law enforcement officer or agent should immediately ask for the officer's identification and immediately contact the Director's office to alert her. Do not disclose any information. In the absence of the Director, refer this person to the Assistant Director or the Building Supervisor (who will contact the Director). Photocopy the officer's ID (identification) and contact the Westford Police Department to verify the identity of the law enforcement officer.
- The Director or Building Supervisor will ask to meet with the agent with Town Counsel in attendance. Have Town Manager approve a Request for Town Counsel to be present and assist onsite during the search. The Building Supervisor will designate another colleague on site to be in attendance during all discussions with the agent. Fill out an Incident Report Form to record the visit.
- Should the person *not* be a law enforcement officer, or the officer *does not* have a court order compelling the production of records, the Director will explain the library's position on furnishing confidential patron information per Massachusetts General Laws, Chapter 78, Section 7 protecting the privacy of library patrons.

Records may only be secured when a proper court order in good form has been presented to the Director.

#### RESPONDING IF A PROPER COURT ORDER IS IN THE FORM OF A SUBPOENA:

- ❖ If the agent or officer presents a court order, the library Director should immediately refer the court order to the Town Counsel for review.
- ❖ Town Counsel will work with the Library Director to ensure that patron confidentiality is upheld to the fullest extent possible, and to craft an appropriate response to the court order.

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

- A search warrant is executable immediately, unlike a subpoena. The agent or officer may begin a search of library records as soon as the Library Director or Building Supervisor is served with the court's order.
- Ask to have Town Counsel present before the search begins in order to allow counsel an opportunity to examine the search warrant, and to ensure that the search conforms to the terms of the search warrant. *(This request may be refused).*
- Cooperate with the search to ensure that only records identified in the warrant are produced and that no other users' records are viewed, accessed or scanned.
- Note: a court order may entail the immediate removal of computer workstations and/or other computer equipment.

#### RESPONDING IF A PROPER COURT ORDER IS ISSUED UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT (FISA) (USA Patriot Act amendment):

- If presented with a federal search warrant, the procedures for a regular search warrant still apply. However, a search warrant issued by a FISA court also contains a "gag order." This means that no person or institution served with the warrant can disclose that the warrant has been served or that records have been produced pursuant to the warrant.
- The library and its staff must comply with this order. No information can be disclosed to any other party, including the patron whose records are the subject of the search warrant. Staff may have to refer law enforcement personnel to the Executive Director of the Merrimack Valley Library Consortium for circulation information and history beyond our records.
- The gag order does not change the library's right to legal representation during the search. The Library Director will contact Town Counsel regarding the warrant and request that Town Counsel be present during the actual search and execution of the warrant.

APPROVED: 3/1/04