

POLICY REGARDING CONFIDENTIALITY OF LIBRARY RECORDS

Rita and Truett Smith Public Library

Approved by the Library Board, May 8, 2017

This policy has been established by the Rita and Truett Smith Public Library in order to ensure that certain records of citizens and taxpayers remain confidential. The policy provides guidance to all library staff and relevant volunteers in implementing the policy for the library. Ultimate responsibility for confidentiality at the Smith Library lies with the Library Director.

In many cases, state law protects certain library records from disclosure if a member of the public or the media requests them. Library records may be subject to disclosure to law enforcement officials under provisions of state and/or federal law or to a litigant in a civil lawsuit.

We do not ask library visitors to identify themselves or reveal any personal information unless they are borrowing materials, requesting special services, registering for programs or classes, or making remote use from outside the library of those portions of the library's web site restricted to registered borrowers under license agreements or other special arrangements. We discourage users from choosing passwords or PINs that could reveal their identity, including social security numbers.

Introduction

The purpose of this policy is to protect the individual user's right to privacy with respect to 1) information sought or received; 2) materials consulted or borrowed; and 3) the status of one's financial accounts with the library.

It is the policy of the library that all circulation records and other records identifying library users remain confidential, except as otherwise provided by law. These records include, but are not limited to, the following:

- personal names
- addresses
- phone numbers
- email addresses
- items checked-out

- items on hold
- library accounts denoting outstanding fines, fees, and items lost
- computer-use records,
- interlibrary loan requests
- reference requests
- meeting room applications
- volunteer applications
- incident reports
- security camera footage

Library staff and volunteers must protect each user's right to privacy regarding materials used and information sought.

Texas Public Information Act, Library Exception

Records of the Smith Library that identify, or serve to identify, a person who requests, obtains, or uses library materials or services are confidential and are exempt from required disclosure under the *Texas Public Information Act (Texas Government Code Section 552.124)* unless the records are disclosed:

- (1) because the library determines that disclosure is reasonably necessary for the operation of the library and the record is not confidential under other state or federal law;
- (2) under Section 552.023 of the Public Information Act (relating to the disclosure of information to a person who has demonstrated that he or she has a special right of access to the information); 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.

The distribution of information considered confidential under the Public Information Act in any manner not in accordance with the Public Information Act is a misdemeanor and is punishable by a

fine up to \$1,000 or confinement in the County Jail for up to six (6) months or both. (*Texas Government Code Section 552.352*).

CONFIDENTIAL RECORDS

Circulation Records

In order to support an individual's choice, access to the account or information associated with a valid Smith library card will be released to a person other than the card holder only under the following circumstances:

For Adults, 18 and up: 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.

For minors, 17 and under: 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 child's card) to obtain specific information about the minor child's library records when materials are overdue or lost.

Information such as number of items checked out or fine amounts are not considered confidential and may be disclosed. The following information can be provided to parents or a legal guardian upon presentation of their child's library card, to an authorized person as stated above, or by telephone to patrons who provide the name and library card number:

- The number of items on loan and the due dates.
- Number of books on hold.
- Fines and fees due on the account.
- Due date information about specific items.

Information about charges due will be released with presentation of a library notice (mailer) or library card. A library notice cannot be used in lieu of a library card for the purpose of checking out

materials. A library barcode number and a PIN number are required in order to access a personal account on the online library catalog. A person requesting action to be performed on specific titles by email or telephone must provide their name, library barcode number and date of birth.

Paper and electronic records

In addition to circulation records, the library protects patron's privacy and confidentiality in regard to paperwork and other records that contain patron information. All records, hardcopy or electronic, concerning a patron's interaction with the library is confidential, except as otherwise provided by law, and falls under the same disclosure policies as library circulation records. Paperwork or electronic records are retained according to the City's record retention policies.

These records include:

- library card applications for minors
- program registration sheets online and paper
- meeting room applications
- interlibrary-loan forms
- security camera footage

Public Computers

We regularly remove cookies, web history, cached files, or other computer and Internet use records and other software code that is placed on our computers or networks.

All users, adults and minors, of computer workstations must be registered card holders with the library. Only the individual card holder may use his/her card for computer access.

Reference Questions

Reference interviews and services are confidential, except as otherwise provided by law. A reference interview will be conducted as discreetly and quietly as possible, to preserve

confidentiality. Staff will not discuss a patron's questions or reading habits, except in the course of conducting library business.

Third Party Security

When connecting to licensed databases outside the library, we release only information that authenticates users as library card holders

Access to accounts and patron responsibility

Protecting Your Library Card

It is your responsibility to notify the library immediately if your card is lost or stolen or if you believe someone is using your card or card number without your permission. We encourage you to protect your PIN/password for your privacy and security.

Keeping Account Information Current

You may access your personally identifiable information held by us and are responsible for keeping your information accurate and current. Please ask a staff member if you have questions about the process for accessing or updating your information.

Items on hold

Items placed on hold for library patrons are shelved by the patron's last name and first name for pick-up in the public area of the library. Holds will be checked out on the library card presented at the time of check-out.

Procedures for Implementing Confidentiality Policy

The following procedures shall be observed when a subpoena or warrant is issued and served:

Subpoena

- The Library Director or designee will ask for law enforcement official's identification and contact information.

- The Library Director or designee will accept the subpoena.
- The Library Director or designee will inform the officer that the City Secretary and City Attorney will respond to subpoena on behalf of the library.
- The Library Director or designee will turn the subpoena over to the City Secretary and City Attorney as soon as possible after receipt. If library staff accepts service of the subpoena in the absence of the Library Director or a designee, the subpoena should be turned over to the Library Director as soon as possible. The City Manager will be notified.
- The Library Director or designee will work with the City Secretary and City Attorney to respond appropriately to the subpoena.

Search Warrant

- The Library Director or designee will ask for the law enforcement official's identification and contact information.
- The Library Director or designee will accept the search warrant.
- The Library Director or designee will immediately inform the City Secretary and City Attorney to provide advice and assistance. The City Manager will be notified.
- The Library Director or designee will ask the law enforcement official if he or she would be willing to delay the search until the City Secretary or City Attorney arrives or provides assistance.
- The Library Director or designee will read the warrant and any attached documentation. The Library Director or designee will verify that it is signed by a judge and is issued by a local state or federal court. If there are questions about the validity of the warrant, a call should be made to the issuing court to verify the validity of the warrant or order.
- The Library Director or designee will not agree to any additional searches or volunteer information about the items or records in the warrant.

- The Library Director or designee will not sign any documents on behalf of the City without the advice of the City Attorney.
- The Library Director or designee will ask the officers to provide an inventory of the items or records seized.
- The Library Director or designee will ask if it is possible to provide copies to the officers or to make copies for the library's own records.
- The Library Director or designee will not obstruct the search in any way.
- If law enforcement is unwilling to cooperate, then step aside and let them get their information. Record the incident and give to the City Secretary and City Attorney. Inform the City Manager.

USA Freedom Act

The Library complies with the USA Freedom Act. The USA Freedom Act prohibits the Library from notifying a patron about a request for information issued and received under the USA Freedom Act. A Library staff member presented with one of the following documents should immediately contact the Library Director or designee to handle the request:

- An order issued ex parte (from one party) by a Foreign Intelligence Surveillance Court (FISC) “requiring the production of any tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities.”
- A National Security Letter requiring records of electronic communications from any library or library consortium that is deemed to be a “wire or electronic communications service provider.”
- The Library Director or designee will ask for the law enforcement official’s identification and contact information.
- The Library Director or designee will accept the order issued by FISC or the National Security Letter. The Library Director or designee will immediately inform the City Secretary and City Attorney to provide advice and assistance. The City Manager will be informed.

- The Library Director or designee will read the order and any attached documentation. Except for the City Attorney and City Secretary, do not inform other library staff or any other person about the order until authorized to do so by the library's legal counsel.
- If the order requires the immediate surrender of records or other items, respond to the order in the same manner as a search warrant. Ask the agent if he or she will delay the search until the library's legal counsel arrives.
- If required to turn over records or other items at once, do not notify any library staff except for legal counsel and those staff members necessary for the production of the requested records or other items. (For example, it may be necessary to ask a member of the Information Support staff to assist with the production of electronic or computer records.) Instruct all staff members who assist in responding to the order that, with the exception of legal counsel, he or she cannot inform other library staff or any other person about the order unless authorized to do so by the library's legal counsel.

If Library staff is required to respond to an order issued under the USA Freedom Act in the absence of the Library Director or designee, they should inform the Library Director as the custodian of records. It is not unlawful for library staff to refer the agent to the Library Director or designee; however, except for legal counsel, the staff member should not inform anyone else about the order unless authorized to do so by the library's legal counsel.

Appendix A
Public Information Act, Library Exception

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, Sec. 16, eff. September 1, 2011.

Sec. 552.352. DISTRIBUTION OR MISUSE OF CONFIDENTIAL INFORMATION. (a) A person commits an offense if the person distributes information considered confidential under the terms of this chapter.

(a-1) An officer or employee of a governmental body who obtains access to confidential information under Section 552.008 commits an offense if the officer or employee knowingly:

(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or employee to obtain access to the information, including solicitation of political contributions or solicitation of clients;

(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or

(3) discloses the confidential information to a person who is not authorized to receive the information.

(a-2) For purposes of Subsection (a-1), a member of an advisory committee to a governmental body who obtains access to confidential information in that capacity is considered to be an officer or employee of the governmental body.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than \$1,000;

(2) confinement in the county jail for not more than six months; or

(3) both the fine and confinement.

(c) A violation under this section constitutes official misconduct.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 249, Sec. 7.01, 7.02, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1089, Sec. 2, eff. Sept. 1, 2003.