

Freedom Public Library RESPONSE TO LAW ENFORCEMENT POLICY

GENERAL INFORMATION

The Freedom Public Library is committed to preserving the confidentiality of all personally identifiable information about library use in accordance with N.H. RSA 201-D:11. The library strives to create an environment that is:

- Welcoming
- A place for learning and pursuit of information on any topic
- A place where library users can ask any question and discuss any topic
- Crime free

In support of these goals, the library will do its utmost to uphold the privacy and confidentiality of library users' free access to information in accordance with NH state law and the American Library Association's Code of Ethics which states that "[librarians shall] protect each library user's right to privacy and confidentiality with respect to information sought or received, and resources consulted, borrowed, acquired, or transmitted."

However, the library also recognizes that there may be situations when records regarding library use by individual users will be requested with the consent of the user or pursuant to subpoena, court order, or where otherwise required by statute. In the above circumstances, pursuant to N.H. RSA 201-D:11(II), the Library will disclose confidential library records to the extent required by law. Access to library user information may include but not be limited to:

- Database Search Records
- Circulation Records
- Computer Use Records
- Inter-Library Loan Records
- Reference Interviews

To respond appropriately to requests for such information, the Freedom Public Library adopts the following policies and procedures:

POLICIES AND PROCEDURES

Responding to Subpoenas and Search Warrants

All requests for library use information should be forwarded immediately to the Library Director or a Library Trustee. If a law enforcement agent or officer or other person has presented a court order, the Library Director or Library Trustee will evaluate the request and arrange for an appropriate response consistent with this policy. Valid court orders can come in two forms, a subpoena or a search warrant.

Subpoenas do not have to be acted on immediately. Search warrants are immediately executable.

Subpoenas

The library and its employees are subject to the subpoena powers of state and federal courts in both criminal and civil matters. Through the issuance of subpoenas, law enforcement agencies and other third persons involved in legal matters to which the library is not a party may seek to compel production of library records that they consider relevant to such matters. Subpoenas may present issues of confidentiality and may also be subject to other valid objections in some cases.

To protect the interests of the library and library users, any library employee who is served with a subpoena relating in any way to library operations will immediately forward the subpoena to the Library Director or Library Trustee for review. In no event shall the employee receiving the subpoena undertake actions to comply with or respond in any way to the subpoena before review by the Library Director or a Library Trustee.

The Library Director or Library Trustee will identify and review any records that are the subject of the subpoena. The Library Director or Library Trustee may consult with library legal counsel as to any legal issues involved, including determining whether the subpoena is valid and what procedures are to be followed in complying with the subpoena.

The Library Director or Library Trustee will give written notice to the user whose records have been subpoenaed and the user's legal counsel, if known, that a subpoena has been served. If the subpoena appears to be valid, the notice will further inform the user that the records will be produced subject to further order by the court. However, users and/or their attorneys will not be contacted in those circumstances when the library is notified that the court has ruled that the issuance of the subpoena is to be kept confidential.

The Library Director or Library Trustee will arrange for an appropriate response to be made to the subpoena within required time constraints.

Search Warrants

If the court order is in the form of a search warrant, it is executable immediately. The law enforcement agent or officer may begin a search of library records as soon as the Library Director or Library Trustee is served with the court's order. However, as deemed appropriate, the Freedom Public Library Director or Library Trustee may insist that library legal counsel be present, if possible, before the search begins to examine the warrant and to ensure that the search conforms to its terms. If a valid warrant has been presented, the Library Director or Library Trustee will cooperate with the search to limit production to the records identified in the warrant, and to

protect against the production, viewing or scanning of other users' records. However, if the warrant appears to be defective, the Library Director or Library Trustee will consult with library legal counsel on whether there is a defect, and if so, the best method to address it.

USA PATRIOT Act Search Warrants

About the USA Patriot Act of 2001: HR-3162 became Public Law 107-56 in response to the events of 9/11/01. The full title of the law is: Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

The Act may provide law enforcement broader boundaries when investigating information accessed and transmitted by library users with regards to national security concerns. The Act allows law enforcement agents or officers to obtain a search warrant for "any tangible thing," which can include books, records, papers, storage media (floppy disks, CD-ROMs, DVDs), data tapes, and computers with hard drives. Law enforcement agents can also obtain a court order allowing the monitoring of Internet and email use, or requiring that the library provide the information about such use to law enforcement from the library's records. The library is prohibited from disclosing to the library user or any other party that a search warrant issued under the USA PATRIOT Act has been delivered and executed.

All search warrants issued pursuant to the USA PATRIOT Act for library user information shall be forwarded immediately to the Library Director or a Library Trustee. If possible, library legal counsel should also be consulted prior to allowing a search to allow counsel to examine the warrant and to ensure that the search conforms to its terms.

After service of a search warrant issued under the USA PATRIOT Act, no library employee may disclose the existence of the warrant or the fact that records were produced as a result of the warrant other than to the Director or a Library Trustee, who will notify library legal counsel. If the warrant is served on a library employee other than the Director, the employee shall immediately refer the party serving the warrant to the Director, or an available Trustee. Notification of the warrant given to the Director or Trustee is a disclosure necessary to produce the tangible things sought by the warrant. However, the library user whose records were produced may not be informed that his or her records were given to law enforcement authorities or that he or she is the subject of a law enforcement investigation.

Other Policy Issues: Emergency Disclosures of Information

If, in the normal course of business, the library staff observes what can be reasonably construed to be a threat of imminent danger to life and limb, they are to

contact law enforcement immediately. They should then contact the Library Director or a Library Trustee and fill out an Incident Report form (see appendix for form).

Procedures for Complying with Legal Court Orders Presented by Law Enforcement Agents or Officers

The library staff will comply with law enforcement when supplied with legal subpoena or warrant.

Staff Procedures:

- If anyone approaches you alleging to be law enforcement official requesting information, do not disclose to that individual any information. Immediately contact the Library Director or a Library Trustee.
- The Director or Trustee will ask to see official identification and will photocopy the ID.
- If law enforcement presents a subpoena, library staff should direct that person to the Library Director or Library Trustee who will in turn direct the subpoena to legal counsel.
- If library staff is presented with a warrant, do not interfere with their search and seizure. Immediately refer the party serving the warrant to the Library Director or an available Trustee.
- Keep a record of all legal requests.
- Keep a record of all cost incurred by any search and/or seizures.
- If the subpoena or search warrant is not confidential, the Library Director will notify the American Library Association.
- Once the law enforcement agency's search is concluded, the Library Director and/or the Board of Trustees will confer with library legal counsel to ensure that the library complies with any remaining requirements, including restrictions on sharing information with other parties. The Freedom Public Library will also review its policies and staff response and make any necessary revisions to this policy.

Approved by FPL Trustees on 9/17/15. Reaffirmed 5/14/21, 9/14/23.