

Joint Automation Council of Mohawk Valley Library System and Southern Adirondack Library System

POLICIES AND PROCEDURES REGARDING DISCLOSURE OF LIBRARY RECORDS

The Joint Automation Council of Mohawk Valley Library System and Southern Adirondack Library System supports our nation's efforts to preserve and protect the many hard-fought freedoms we enjoy as Americans. We have the responsibility of protecting the privacy of our patrons in accordance with New York State Law*. Therefore, we will do our utmost to uphold the privacy and confidentiality of patrons' free access to information while responding to legitimate security concerns.

Library records, as defined by NYS law 4509, should not be released or made available in any format to a federal agent, law enforcement officer or other person unless a court of competent jurisdiction has entered a court order in proper form.

The Joint Automation Project does not record patron usage of database searches, individual member library computer use or interlibrary loan requests for materials outside of the systems.

Library records that are not necessary for the proper operation of member libraries and our systems are purged after 30 days.

It is the responsibility of library and system staff to purge their individual email and/or user files.

During a visit by a law enforcement officer to the Joint Automation Center at SALS:

- If anyone approaches a staff member alleging to be a law enforcement official requesting information, **DO NOT DISCLOSE TO THAT INDIVIDUAL ANY INFORMATION.** Immediately contact your supervisor who will contact the SALS Director. If the SALS Director is not available, contact the MVLS Director.
- The Director will ask to see official identification and photocopy the ID.
- If law enforcement does not have a court order compelling the production of records, the Director should cite the state's confidentiality law (see below), and inform law enforcement that users' records are not available except when a proper court order in good form has been presented to the library system. Without a court order law enforcement has no authority to compel cooperation with an investigation or require answers to questions, other than the name and address of the person speaking to law enforcement.
- If law enforcement presents a subpoena, the Director will contact legal counsel.

- If law enforcement presents a warrant, to either staff or the Director, do not interfere with their search and seizure. The Director and legal counsel should be contacted as soon as possible.
- Keep a record of all legal requests.
- Keep a record of all costs incurred by any search and/or seizures.
- A search warrant issued by a FISA (Foreign Intelligence Surveillance Act) court contains a “Gag” order. That 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 record is the subject of the search warrant.

*NEW YORK STATE CIVIL PRACTICE LAWS AND RULES

4509. Library records

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 users or pursuant to subpoena, court order or where otherwise required by statute.

“It is the court’s determination that disclosure of the information sought [i.e., employees who used the Southern Adirondack Library System’s “Library Without Walls” electronic information service to explore the Internet] should not be permitted. ... Were this application to be granted, the door would be open to other similar requests made, for example, by a parent who wishes to learn what a child is reading or viewing on the ‘Internet’ via ‘LWW’ or by a spouse to learn what type of information his or her mate is reviewing at the public library.” (Quad/Graphics, Inc. v. Southern Adirondack Library System, 174 Misc. 2d 291, 664 NYS 2d 225, September 30, 1997).

“Based upon [Section 87 (2) (a) through (I) of the Freedom of Information Law and Section 4509 of the CPLR], I believe that registration cards or other library records containing ‘names or other personally identifying details’ concerning library users are confidential.” (Committee on Open Government Advisory Opinion FOIL-AO-6721, July 10, 1991).

Approved by the Joint Automation Council on July 29, 2003