

CHESTER COUNTY LIBRARY SYSTEM CONFIDENTIALITY OF LIBRARY RECORDS

BACKGROUND

Public library service is based on the First Amendment of the United States Constitution, which guarantees the right of free expression. Inherent in this right is the freedom to read, to listen, and to view without interference and surveillance.

The Board of Trustees of the Chester County Library System affirms the Code of Ethics of the American Library Association which states, *"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."*

POLICY STATEMENT

It is the policy of the Chester County Library System (CCLS) to endorse and comply with the [PA] Library Code, Act of June 14, 1961, P.L. 324 as amended through July 1, 2000, specifically Section 428, added 1984, June 27, P.L. 431, No. 90, Section 3, commonly referred to as "Act 90", quoted below.

Library Circulation Records

"Records related to the circulation of library materials which contain the names or other personally identifying details regarding the users of the State Library or any local library which is established or maintained under any law of the Commonwealth or the library of any university, college or educational institution chartered by the Commonwealth or the library of any public school or branch reading room, deposit station or agency operated in connection therewith, shall be confidential and shall not be made available to anyone except by a court order in a criminal proceeding."

The CCLS defines "circulation records" to include the user's personally identifiable information, the borrowing of member libraries materials, interlibrary loan records, Internet and electronic resource records and other personally identifiable uses of the CCLS integrated library system (ILS) or CCLS network.

The Board of Trustees of CCLS further considers confidential; the use of library materials in the member libraries; requests for information or materials by author, title or subject; reading, listening or viewing habits related to author, title or subject; and other personally identifiable uses of library materials, equipment, or services.

- The CCLS interprets possession of a CCLS library card (or card number in a phone or email request) as consent to use it unless it has been reported lost or stolen, or there is reason to believe that consent has not been given.
- Persons attending library programs or public meetings may be videotaped or photographed as an audience member. These images may be used for libraries' programming or promotion, including the libraries' websites, the Internet and other media.

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- Security cameras are installed in some member libraries. Only authorized staff may view recordings. Libraries' security camera recordings are public records, and may be viewed by others upon receipt of an open records or law enforcement request. Requests should be made to the member library where the cameras are installed.

The CCLS expects staff and volunteers to treat all confidential information similarly, regardless of the individual's age.

It is also the policy of the CCLS to comply with federal laws such as the USA PATRIOT Act (2001; P.L. 107-56) which allows access to library information by law enforcement agencies by proper legal order.

The custodian of "circulation records" is the Chester County Library System Executive Director.

Requests for "circulation records" should be made in writing to the CCLS Executive Director at 450 Exton Square Parkway, Exton PA 19341. Requests for other confidential information should be made in writing to the Director of the CCLS Member Library where the transaction occurred.

The CCLS recognizes its obligation to protect user confidentiality to the extent possible within the framework of the law. The Library's response to legal orders will be guided by the advice of the County Solicitor's Office.

Approved October 16, 2012

**CHESTER COUNTY LIBRARY SYSTEM
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**PROCEDURES FOR STAFF FOR IMPLEMENTING THE CONFIDENTIALITY OF
LIBRARY “CIRCULATION RECORDS”**

CUSTODIAN OF RECORDS

The Chester County Library System (CCLS) Executive Director is custodian of library records for the Chester County Library, Exton and the Henrietta Hankin Branch Library **and** the following “circulation records” for the Chester County Library System:

- Any record/information (printed or electronic) located in the Millennium database.
 - Any Interlibrary Loan records/information (printed or electronic).
 - PCs that are leased and paid for by the Chester County Library System.
 - Information related to the network.
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**REQUESTS FOR “CIRCULATION RECORDS” FROM A THIRD PARTY OR LAW
ENFORCEMENT WITHOUT A SUBPOENA OR SEARCH WARRANT**

Procedures for Staff

1. Always attempt to handle the request in a positive manner.
2. Explain that under Pennsylvania state law, we may not give out information about other person’s (even a family member) circulation record. We may only give them the information about their circulation record.
3. If the person/law enforcement is persistent contact the director or person in charge at member library.

Procedures for Member Library Director or Person in Charge

1. Explain in further detail the reasons behind the policy. The person may, in fact, not fully understand the reasoning for the policy.
 2. If needed, give the person a copy of the CCLS Confidentiality of Library Records Policy.
 3. Assist the person/officer/agent to the extent of the Policy, your knowledge and your judgment. Beyond that,
 4. Explain to the person/officer/agent that only the CCLS Executive Director is authorized to discuss the matter further. Give the person the CCLS Executive Director’s contact information.
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**REQUESTS FOR “CIRCULATION RECORDS” FROM LAW ENFORCEMENT WITH A
SUBPOENA OR SEARCH WARRANT**

All requests from law enforcement for “circulation records” must be immediately communicated to the CCLS Executive Director. The CCLS Executive Director will guide member library directors how to proceed with the request.

**CHESTER COUNTY LIBRARY SYSTEM
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Definitions

A **search warrant** is a *court order* issued by a judicial officer – a judge or magistrate. It can be federal, state or local. Unlike subpoenas, in which there is usually time to contact an attorney, search warrants are **immediately executable**. The execution of a search warrant can be abrupt and effected by force or threat of it.

A **subpoena** is an order directed to an individual commanding him to appear in court on a certain day to testify. A subpoena does not require immediate compliance.

A **subpoena duces tecum** is a subpoena ordering a person to appear in court and bring specified documents or records. A subpoena duces tecum does not require immediate compliance.

(*Note: A subpoena is **not** a court order unless it is issued by a court (signed by a judge). A subpoena is often issued at the request of an attorney or a law enforcement officer and may not have been reviewed by a judge. (The section of the PA Library Code which governs Confidentiality of Library Records states that “Records related to the circulation of library materials ... shall be confidential and shall not be made available to anyone except by a **court order** in a **criminal proceeding**.”)*)

For the purpose of this document, **designated person in charge** refers to a person who has been designated by the CCLS member library director and a person who has been trained in the contents of this document.

SUBPEONA

Procedures for Staff

1. Adopt a courteous, neutral attitude.
2. Immediately call to notify the member library director or designated person in charge.

Procedures for Member Library Director or Person in Charge

3. In most cases, the CCLS member library director or designated person in charge will accept custody of subpoenas from law enforcement officers without commenting on them or determining their validity and will immediately notify the CCLS Executive Director that such a document has been received.
 4. The CCLS Executive Director will instruct the member library director in how to proceed with the document and will consult with the County Solicitor before deciding the appropriate response to a request for records and/or information from a law enforcement officer/agent.
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**CHESTER COUNTY LIBRARY SYSTEM
CONFIDENTIALITY OF LIBRARY RECORDS – PROCEDURES**

SEARCH WARRANT

Procedures for Staff

1. Adopt a courteous, neutral attitude. Do not do anything that may be interpreted as obstruction of the search.
2. Immediately call to notify the member library director or designated person in charge.

Procedures for Member Library Director or Person in Charge

3. Adopt a courteous, neutral attitude. Do not do anything that may be interpreted as obstruction of the search.
4. Ask the officer/agent if he/she could delay executing the search warrant until the CCLS Executive Director and/or the County Solicitor have been contacted.
5. Next, call the CCLS Executive Director. If you are unable to contact the CCLS Executive Director, contact the County Solicitor to inform him/her of situation.
6. Whether or not the officer/agent is willing to wait, continue with "7" below.
7. Ask the officer for identification and a business card.
 - Write down the badge number, the law enforcement agency (FBI, etc.), and the officer's /agent's name and telephone number. This information should be included in Library Incident Report.
 - **DO NOT** make a photocopy of the identification, as it is illegal to do so.
 - **DO NOT** provide records or information without seeing appropriate identification.
8. If the member library director or designated person in charge is uncertain of the validity of the identification, call the agency that the officer/agent says he or she represents to verify that the officer/agent does in fact represent that agency.
9. If an alleged officer/agent does not have any identification and is adamant or threatening in his/her manner, ask another staff to call 911 for assistance.
10. Ask to see and make a copy of the search warrant. A copy of the search warrant is essential for follow-up and for Library Incident Reports
11. At no time should the member library director, designated person in charge or the CCLS Executive Director, or any other library staff, indicate in any way that he or she consents to the search – even if it is believed that the search warrant is valid. Nor should the search be obstructed in any manner by any staff.
12. If the officer does not have a search warrant compelling the production of records or tangible items, the officer should be informed in a neutral tone of voice of the [PA] Library Code, Act of June 14, 1961, P.L. 324 as amended through July 1, 2000, specifically Section 428, added 1984, June 27, P.L. 431, No. 90, Section 3, commonly referred to as "Act 90", quoted in the CCLS Policy on Confidentiality of Library Circulation Records.
13. If the officer has a search warrant, library records or tangible items identified in the search warrant that are readily available must be given to the officer.
 - The member library director or designated person in charge should NOT verify the authenticity of any record or item seized.
 - If officer/agent seizes items not listed on the search warrant, do not obstruct him/her in any way.

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- If the officer/agent does not have a search warrant, or wants to know where records/items are that are not listed on the search warrant, the records/items or information asked about should not be provided to the officer/agent.
14. If the requested record or information is not accessible to the member library director or designated person in charge, the officer/agent should be directed to the CCLS Executive Director.
 15. The officer/agent is required to give an inventory of all items seized. Staff should NOT sign anything verifying the contents or accuracy.
 16. If the library is served with a search warrant pursuant to the USA Patriot Act, the library and library staff may be forbidden by law to disclose to anyone except those in the chain of command and the County Solicitor that the warrant was served, what records were produced, or the identity of the person being investigated.
 17. The member library director or designated person in charge should take notes of all searches, as this can be helpful in recalling what took place. If the officer/agent says it is **not** permitted, then **do not** take notes.
 18. All questions from the media should be referred to the CCL, Exton Public Relations Coordinator or the CCLS Executive Director or the County Solicitor's Office.

* Even if the officer/agent does not have a search warrant or does not have one that appears to be valid, after checking his/her identification, do not in any way try to or otherwise appear to obstruct the officer from conducting a search. **There are times when a search warrant is not necessary. An officer's duty to protect people and preserve evidence can outweigh the warrant requirement.** The County Solicitor or a court of law will determine the legality of the search and the items seized from the search.

**CHESTER COUNTY LIBRARY SYSTEM
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**PROCEDURES FOR STAFF FOR IMPLEMENTING THE CONFIDENTIALITY OF
OTHER CONFIDENTIAL LIBRARY INFORMATION**

Definitions

Other Confidential Library Information - In addition to "Circulation Records," The Board of Trustees of CCLS further considers confidential; the use of library materials in the member libraries; requests for information or materials by author, title or subject; reading, listening or viewing habits related to author, title or subject; and other personally identifiable uses of library materials, equipment, or services.

**REQUESTS FOR OTHER CONFIDENTIAL LIBRARY INFORMATION FROM A THIRD
PARTY OR LAW ENFORCEMENT WITHOUT A SUBPOENA OR SEARCH WARRANT**

Requests for other confidential information should be made in writing to the Director of the CCLS Member Library where the transaction occurred

Procedures for Staff

1. Always attempt to handle the request in a positive manner.
2. Explain that the CCLS Confidentiality of Library Records Policy does not allow us to release information about other person's (even a family member) confidential information.
3. If the person/law enforcement is persistent contact the director or person in charge at your library.

Procedures for Member Library Director or Person in Charge

1. Explain in further detail the reasons behind the policy. The person may, in fact, not fully understand the reasoning for the policy.
 2. If needed, give the person a copy of the CCLS Confidentiality of Library Records Policy.
 3. Assist the person/officer/agent to the extent of the Policy, your knowledge and your judgment. Beyond that,
 4. Explain to the person/officer/agent that only the member library director is allowed to discuss the matter further. Give the person the member library director's contact information.
 5. Resources available to help guide the member library director with this discussion are the Code of Ethics of the American Library Association (ALA), the Library Bill of Rights, The First Amendment, ALA's Freedom to Read Statement and ALA's Freedom to View Statement. The member library director may also consult with the CCLS Executive Director.
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**CHESTER COUNTY LIBRARY SYSTEM
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REQUESTS FOR OTHER CONFIDENTIAL LIBRARY INFORMATION FROM LAW ENFORCEMENT WITH A SUBPOENA OR SEARCH WARRANT

All requests from law enforcement for other confidential library information must be immediately communicated to the member library Custodian of Records. The member library Custodian of Record will guide person in charge how to proceed with the request.

Definitions

A **search warrant** is a *court order* issued by a judicial officer – a judge or magistrate. It can be federal, state or local. Unlike subpoenas, in which there is usually time to contact an attorney, search warrants are **immediately executable**. The execution of a search warrant can be abrupt and effected by force or threat of it.

A **subpoena** is an order directed to an individual commanding him to appear in court on a certain day to testify. A subpoena does not require immediate compliance.

A **subpoena duces tecum** is a subpoena ordering a person to appear in court and bring specified documents or records. A subpoena duces tecum does not require immediate compliance.

(*Note: A subpoena is **not** a court order unless it is issued by a court (signed by a judge). A subpoena is often issued at the request of an attorney or a law enforcement officer and may not have been reviewed by a judge. (The section of the PA Library Code which governs Confidentiality of Library Records states that “Records related to the circulation of library materials ... shall be confidential and shall not be made available to anyone except by a **court order** in a **criminal proceeding**.”)*)

For the purpose of this document, **designated person in charge** refers to a person who has been designated by the CCLS member library director and a person who has been trained in the contents of this document.

SUBPEONA

Procedures for Staff

1. Adopt a courteous, neutral attitude.
2. Immediately call to notify the member library director or designated person in charge.

Procedures for Member Library Director or Person in Charge

3. The member library director or designated person in charge will accept custody of subpoenas from law enforcement officers without commenting on them or determining their validity.

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4. The member library director should consult with the library's legal counsel before deciding the appropriate response to a request for records and/or information from a law enforcement officer/agent.
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SEARCH WARRANT

Procedures for Staff

1. Adopt a courteous, neutral attitude. Do not do anything that may be interpreted as obstruction of the search.
2. Immediately call to notify the member library director or designated person in charge.

Procedures for Member Library Director or Person in Charge

3. Adopt a courteous, neutral attitude. Do not do anything that may be interpreted as obstruction of the search.
4. Ask the officer/agent if he/she could delay executing the search warrant until the member library director or legal counsel have been contacted.
5. Next, call the member library director. If you are unable to contact the member library director, contact member library legal counsel to inform him/her of situation.
6. Whether or not the officer/agent is willing to wait, continue with "7" below.
7. Ask the officer for identification and a business card.
 - Write down the badge number, the law enforcement agency (FBI, etc.), and the officer's /agent's name and telephone number. This information should be included in Library Incident Report.
 - **DO NOT** make a photocopy of the identification, as it is illegal to do so.
 - **DO NOT** provide records or information without seeing appropriate identification.
8. If the member library director or designated person in charge is uncertain of the validity of the identification, call the agency that the officer/agent says he or she represents to verify that the officer/agent does in fact represent that agency.
9. If an alleged officer/agent does not have any identification and is adamant or threatening in his/her manner, ask another staff to call 911 for assistance.
10. Ask to see and make a copy of the search warrant. A copy of the search warrant is essential for follow-up and for Library Incident Reports.
11. At no time should the member library director, designated person in charge or any other library staff, indicate in any way that he or she consents to the search – even if it is believed that the search warrant is valid. Nor should the search be obstructed in any manner by any staff.
12. If the officer does not have a search warrant compelling the production of records or tangible items, the officer should be informed in a neutral tone of voice of the [PA] Library Code, Act of June 14, 1961, P.L. 324 as amended through July 1, 2000, specifically Section 428, added 1984, June 27, P.L. 431, No. 90, Section 3, commonly referred to as "Act 90", quoted in the CCLS Policy on Confidentiality of Library Circulation Records.

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13. If the officer has a search warrant, library records or tangible items identified in the search warrant that are readily available must be given to the officer.
 - The member library director or designated person in charge should NOT verify the authenticity of any record or item seized.
 - If officer/agent seizes items not listed on the search warrant, do not obstruct him/her in any way.
 - If any records asked for or seized are “circulation records”, refer to Procedures for *Request for “Circulation Records” from Law Enforcement with A Subpoena or Search Warrant*.
 - If the officer/agent does not have a search warrant, or wants to know where records/items are that are not listed on the search warrant, the records/items or information asked about should not be provided to the officer/agent.
 14. The officer/agent is required to give an inventory of all items seized. Staff should NOT sign anything verifying the contents or accuracy.
 15. If the library is served with a search warrant pursuant to the USA Patriot Act, the library and library staff may be forbidden by law to disclose to anyone except those in the chain of command and the library’s legal counsel that the warrant was served, what records were produced, or the identity of the person being investigated.
 16. The member library director or designated person in charge should take notes of all searches, as this can be helpful in recalling what took place. If the officer/agent says it is **not** permitted, then **do not** take notes.
 17. All questions from the media should be referred to the member library director.
- * Even if the officer/agent does not have a search warrant or does not have one that appears to be valid, after checking his/her identification, do not in any way try to or otherwise appear to obstruct the officer from conducting a search. **There are times when a search warrant is not necessary. An officer’s duty to protect people and preserve evidence can outweigh the warrant requirement.** The library’s legal counsel or a court of law will determine the legality of the search and the items seized from the search.
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