

## **Brooks Free Library Board of Trustees**

### **Policy on Library Response to Law Enforcement Inquiries**

This policy replaces the previous "Brooks Free Library Policy and Procedures in Response to the USA Patriot Act of 2001," which was approved by the Brooks Free Library Board of Trustees on July 12, 2006.

#### **GENERAL INFORMATION**

Brooks Free Library is committed to protecting the privacy of our patrons. We believe privacy is essential to the exercise of free speech, free thought, and free access to information. To that end, the Library minimizes the amount of personally identifiable information that it gathers and retains such information about transactions only as long as it is needed for the efficient operation of the Library. The Library recognizes the confidentiality of patron registration and circulation records provided in Massachusetts General Law Chapter 78 Section 7, which states "[t]hat 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." The Library agrees with 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," which means that in addition to traditional circulation records, the Library respects the right of patrons to privacy and confidentiality in their use of technology, Internet access and electronic resources provided by the Library.

As a member of the Cape Libraries Automated Materials Sharing (CLAMS) consortium, Brooks Free Library abides by the CLAMS Privacy Policy, which states "CLAMS adheres to Massachusetts General Laws Chapter 78, Section 7, which states that library 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 user or pursuant to subpoena, court order or where otherwise required by statute. CLAMS considers circulation and registration records identifying the names, addresses, and telephone number of library patrons, as well as materials borrowed or accessed electronically, not to be part of the public record." This means Library staff members are prohibited from disclosing any information contained in patron records of the Integrated Library System (ILS) to law enforcement or any third party without a valid court order.

Good customer service and efficient operation of the Library may sometimes require that the Library maintain records in addition to the data recorded in the Integrated Library System (ILS) that tie a patron to their intellectual pursuits. Such records will be limited, temporary in nature and will be destroyed or deleted as soon as no longer necessary. Software and systems for managing technology and Internet access will be selected and configured so that they do not maintain data on the activity of individual patrons.

The Library recognizes that there may be situations when records regarding use of library resources by individual patrons will be requested with the consent of the patron or pursuant to a

valid subpoena, search warrant, court order, or where otherwise required by statute. Such information will only be disclosed in response to valid law enforcement order.

#### DESIGNATED OFFICIAL FOR RESPONDING TO LAW ENFORCEMENT INQUIRIES

The Library Director and Chairman of the Board of Trustees are the individuals responsible for handling law enforcement inquiries. Staff members should refer the law enforcement agent or officer to the Library Director or Chairman of the Board of Trustees. Appendix A provides a Chain of Command to be used to determine the staff member responsible for handling the Library's response when the Director will be unavailable for a significant period of time. Appendix A also contains a Chain of Command for the Library Trustees for when the Chairman is unavailable and the contact information for legal counsel.

#### PATRON INFORMATION MAINTAINED BY THE LIBRARY

Appendix B describes the limited information collected and maintained on patrons and their use of the library and library resources. This information will be utilized by Library officials to assist in locating relevant information to respond to valid court orders. It should also be shared with law enforcement officials or agents executing a search warrant since it documents the limited information collected and retained on patron's intellectual pursuits and may reduce the unnecessary seizure of technology, equipment and records.

#### PROCEDURES FOR RESPONDING TO LAW ENFORCEMENT INQUIRIES

No information identifying a patron and his/her intellectual pursuits is to be provided in response to a verbal or written inquiry from a law enforcement officer or agent, government official or member of the public. Such information may only be disclosed upon receipt of a valid court order. Valid court orders can come in two forms, a subpoena or a search warrant. Subpoenas do not have to be acted on immediately. A search warrant is immediately executable, though as discussed below, every attempt will be made to obtain advice from legal counsel and to have counsel present during the execution of a search warrant.

##### 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 Chairman of the Board of Trustees 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 Trustee Chairman. If the Library Director is unavailable, the Chain of Command (Appendix A) will be followed to determine which staff member is designated to respond to the law enforcement inquiry.

The Library Director or Trustee Chairman will identify and review any records that are the subject of the subpoena. The Library Director or Trustee Chair will advise the Town Administrator that a subpoena has been received and that the Library will be contacting Town Counsel. The Library Director or Trustee Chairman will then consult with 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, and 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 Chairman of the Board of Trustees is served with the court's order. The Library Director or Chairman of the Board of Trustees will make every attempt to contact Town Counsel to review search warrant and advise on its validity prior to its execution, although law enforcement is not required to wait for this before executing the search warrant. The Library will also request and attempt to arrange for legal counsel to be present before the search begins to ensure that the search conforms to the terms of the search warrant. If a valid warrant has been presented, the Library Director or Chairman of the Board of Trustees 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. If Town Counsel cannot be contacted in time to examine the search warrant prior to its execution or to be present during the search, the Library or Chairman of the Board of Trustees will follow up with Town Counsel after the fact to determine if the search warrant was valid and properly executed and for legal advice on any steps the Library should take as a result of this law enforcement action.

### Law Enforcement Inquiries Related to National Security

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA Patriot Act) of 2001, Foreign Intelligence Surveillance Act (FISA) of 1978 and other federal legislation and executive orders may provide law enforcement broader boundaries when investigating information accessed and transmitted by library users with regards to national security concerns. This type of legislation or executive order may allow 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 or officers may also be able to obtain a court order allowing the monitoring of Internet and email use, or requiring that the library provide information about such use to law enforcement from the library's records. This type of legislation or executive order has sometimes included a provision that prohibits the library from disclosing to the library patron or any other party that a search warrant has been delivered and executed, a provision commonly referred to as a "gag order."

All search warrants issued pursuant to the FISA court, USA PATRIOT Act or other national security law or executive order for patron information shall immediately be forwarded or directed to the Library Director or Chairman of the Board of Trustees. The Director or Chairman

will make every attempt to contact Town Counsel prior to the execution of the search warrant to allow counsel to examine the warrant and to ensure that the search conforms to its terms.

After service of a search warrant issued by a FISA court or under the USA PATRIOT Act or other national security law or executive order which contains a gag order, 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 Chairman of the Board or an available Trustee. Notification of the warrant given by an employee to the Director or Trustee is a disclosure necessary to produce the tangible things sought by the warrant. However, the library patron 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**

Nothing in this policy should be interpreted as preventing any Library staff member, Trustee or volunteer from reporting what they believe to be an imminent danger so that it can be prevented. 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. There is no need to seek approval from a supervisor or the Library Director prior to placing the 911 call. The staff member should then contact the Library Director or person in charge or the Chairman of the Board of Trustees and fill out an Incident Report form.

**Approved by Brooks Free Library Board of Trustees 4/12/17**

## Appendix A

### Chain of Command for Responding to Law Enforcement Inquiries

#### Library Staff

Library Director	Ginny Hewitt
Assistant Director	Emily Milan
Reference Librarian	Jennifer Pickett
Youth Services Librarian	Ann Carpenter
Staff Librarian	Suzanne Martell
Staff Librarian	Emily Carta
Administrative Assistant	Megan Hoyer
Assistive Tech Coordinator	Carla Burke
Library Shift Supervisor	Jack Sheedy
Senior Library Tech	Phil Inman
Senior Library Tech	Pam Paine
Senior Library Tech	Joanne Clingan
Senior Library Tech	Lee Kelley
Senior Library Tech	Carey Sims
Senior Library Tech	Sue Henken
Senior Library Tech	Chris Kaufmann

Chairman	Mary Warde
Vice Chairman	Joan McCarty
Treasurer	William Crowell
Secretary	Kathleen Remillard
	JoAnne Brown
	Jeannie Wheeler
	Ann Emerson

Staff Chain of Command  
Updated Nov. 1, 2017

#### Library Trustees

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#### **Contact Information for Legal Counsel:**

##### 1. Town Counsel:

KP Law  
101 Arch St., Boston, MA 02110-1109  
Telephone: 1-617-556-0007 (Toll Free: 1-800-548-3522)  
Fax: 1-617-654-1735 (Toll Free Fax: 1-800-951-5455)

##### 2. Freedom to Read Foundation:

If Town counsel cannot be reached, legal advice may be obtained from the Freedom to Read Foundation. Contact the American Library Association Office for Intellectual Freedom at 1-800-545-2433, ext. 4223 and inform the staff that immediate legal advice is needed. Please note: Details of the request and the existence of a subpoena or search warrant are not to be provided to Office of Intellectual Freedom staff. The OIF staff will take the request, relay it to the Freedom to Read Foundation and ensure that an attorney returns the call.

## **Appendix B – Policy on Response to Law Enforcement Inquiries**

Updated 4.3.17

### **Integrated Library System (ILS)**

Brooks Free Library is a member of the Cape Libraries Automated Materials Sharing (CLAMS) consortium, which provides us with the Integrated Library System (ILS) needed to process library transactions such as check-outs, renewals and placement of holds. The current ILS is Sierra, which is provided by Innovative Interfaces, Inc. The ILS consists of a number of modules, such as Circulation, Cataloging, Acquisitions, and Serials. Staff members use the ILS modules to create, update and delete patron and bibliographic records, check materials in and out, renew items, place and manage holds, collect and waive fines and fees for late or lost materials. The ILS also includes a database of patron records and a database of bibliographic records (i.e., item records for books, audiobooks, magazines, etc.) Records in the database are shared by all CLAMS member libraries. The databases and the CLAMS catalog are hosted on servers owned and maintained by the CLAMS consortium.

The CLAMS central site office is located at 270 Communication Way, Unit 4E; Hyannis, MA 02601. Telephone: 508-790-4399. Fax: 508-771-4533. After normal business hours staff of member libraries can reach the on-call member of the CLAMS staff at 1-774-810-9420.

### **Patron Records in the ILS:**

A patron record only contains data on items currently checked out to that patron, items on hold for that patron, and previously checked out items for which overdue fines or replacement fees have not yet been paid. Once an item has been returned and any fines or fees paid, the link between a patron record and an item is broken. It is not possible for Library staff members to view a patron record and access his/her borrowing history.

### **Catalog Search Records:**

These records refer to the searches of the database of bibliographic records (commonly referred to as “the CLAMS catalog.”) by patrons and staff members. When in the Library, patrons may access and search the CLAMS catalog using one of the Library’s Online Public Access Catalog (OPAC) stations (public workstations that only allow access to the CLAMS catalog). The public catalog is also available to users on the Internet. As a website, the web catalog can be accessed from any computer or device connected to the Internet, whether located in the Library or not.

Once a search is conducted, the ILS software does not retain a copy of the search on the Library computer or device. Records of the search may exist on CLAMS servers and the CLAMS central office could be requested to provide information to law enforcement officials without the knowledge of Brooks Free Library staff or individual library patrons.

### **Circulation Records:**

The circulation software tracks items currently checked out and on hold for patrons and

current fines and fees of patrons. The ILS does not record a link between a patron record and an item once the item is returned and all fines are paid. It is not possible to look up a patron's record and find out what that patron has borrowed in the past. It is possible to look up the record for a specific item and obtain limited information about patrons (specifically, the patron who last borrowed the item and whether a fine was paid). A patron may voluntarily opt-in to a feature of the public web catalog that allows them to retain their own reading history. The patron may also chose to opt-out of this feature at any time and no further reading history information would be kept. The information collected on a patron's reading history is only available to that patron and only after he/she logs into My Account with their barcode or user name and password on the CLAMS web catalog. Staff members have no access to this information on either the public catalog or in the staff modules of the ILS. Staff members also have no access to the password chosen by the patron, which is automatically encrypted as it is entered.

### **Public Computers and Internet Access:**

Brooks Free Library provides technology for patrons to access the Internet.

#### Workstations utilizing desktop computers and laptops:

Public workstations that consist of desktop computers use security software—that prevents patrons from making any changes to the computer. This means that they cannot save any documents or material to the computer's hard drive. Browsing history is deleted when the computer is rebooted, which occurs after every patron session. At this point very few of our public computers or devices are desktop computers or laptops.

#### Workstations utilizing zero clients:

Most of our workstations for adults utilize zero clients. No data (documents as well as browsing history) is kept on these work stations.. The system utilizes a local server but its sole function is to host the operating system. It is not capable of storing any data.

#### Workstations utilizing Chromebooks:

The Library utilizes Chromebooks for our Homework Center and offers several Chromebooks to patrons for in-house use. Chromebooks use a cloud-based operating system which requires users to log-in with a personal Gmail account. No data is retained on the Chromebook. Any data, documents or other materials are stored in the cloud account linked to the personal Gmail account. Each Chromebook has a guest account, utilized by patrons without a Gmail account but that account is cleared by the patrons when they log off at the end of their session. Library staff members also clear the Chromebook's browsing history at the end of each day in case a guest account user did not properly log off the guest account.

#### Records of Computer Use:

The library provides public access to the computers and devices for Internet use, productivity software and other applications. Use of most adult computers is on a first come, first served basis - no sign-up sheets or reservation forms are used. Patrons do not need to have or show

a library card to use the public computers. Patrons wait in line for the next available computer.

Adult patrons are not allowed to use the workstations in the Youth Services Department's Homework Center. Children age 13 and under must have signed parental permission to use the Internet. Patrons using the computers in the Homework Center and the adult Research and Word processing stations patrons sign-up for time slot on a clipboard kept in that area. These paper sign-up sheets are for managing time slots only. Patrons are not required to sign their full name nor are their identities verified. (Note: Youngsters using the Homework Center stations must identify themselves to the staff member so he/she can verify they have parental permission to use computers with Internet access, but they are not required to use their full name or legal name when signing up for a time slot.) These sign-in sheets are collected so that use of these work stations can be counted for reporting purposes. The sign-up sheets are destroyed as soon as the sessions are counted, a period not to exceed one week.

#### Library Provided Internet Access:

The Library provides wired workstations and wi-fi access to the Internet. The Library's wired and wireless systems do not track or record data on individual patrons' sessions or their online activity. While the Library does not track or store information on patrons' online activities, patrons and law enforcement should be aware that telecommunication providers, websites and vendors of electronic resources may have the ability to store and collect that data and each has its own policies on the nature of this data and on how it is retained and utilized.

The Library's staff computers receive their Internet access through the CLAMS consortium, which is on Open Cape. The public computers and wi-fi service utilize a separate network and receive Internet access via a free broadband connection provided by Comcast.

#### Use of Library Provided Electronic Resources:

The Library subscribes to electronic resources that may be utilized by patrons within the Library or remotely from any computer or device with Internet access. Information regarding patron use of Library-provided electronic resources is not retained on library computers or in paper form. The vendors provide the Library with usage statistics, but that data is not patron specific. Each vendor the library contracts with for electronic resources has its own policy for the retention of patron information and law enforcement may be able to obtain patron specific information directly from these vendors.

#### **Interlibrary Loan Requests and Records:**

Patrons may borrow items not owned by CLAMS member libraries via Inter-Library Loan (ILL) provided by other libraries in Massachusetts and from libraries in other states. The Library generates paper records that include patron information in order to initiate and track this borrowing. Once the materials are returned and all appropriate fines and/or fees are paid, the paper record identifying the requestor is filed for 3 months in case of delivery problems, and then destroyed. Other records of patron requests for items outside the CLAMS network may be retained for various time periods by the other systems involved in



the request process (currently the Massachusetts Library System (MLS) and the Commonwealth Catalog). This information is not stored on any Brooks Free Library computers or devices.

### Document Delivery Requests and Records

Patrons may request articles from newspapers, magazines and journals through document delivery services provided by Boston Public Library. The Library generates a paper record that includes patron information in order to initiate and track this request. Once the materials have been received and delivered to the patron, the paper record is destroyed. Other records of patron requests for document delivery services may exist at the Boston Public Library where they may be retained for various time periods. This information is maintained in paper or stored on any Brooks Free Library computers or devices.

### **Reference Interviews:**

A reference interview occurs when a patron looking for information is interviewed or questioned by a library staff member in order to narrow down the specific information needed. If a patron name and number is written down, the paper record is destroyed as soon as the requested information is delivered. No paper record identifying the patron is kept after the query has been successfully answered. Other records that do not identify the patron may be kept for collection development purposes.

### **VITAL Program Records**

The Library records and maintains paper and electronic records related to students and volunteers in our VITAL (Vision Impaired Technology Assistance at the Library) assistive technology training program. These records may contain personal information on patrons that may be covered by HIPPA laws in addition to MGL Chapter 78 Section 7 that protects the confidentiality of library records. Information contained in these records may not be disclosed to any third party without permission of the patron or a valid court order.

### **Volunteer Records**

The Library may collect and maintain limited information on Library volunteers to assist in contacting them regarding scheduling changes or other matters related to library operations or, in an emergency, to contact family members or friends they have designated as emergency contacts. These records are to be treated as confidential, like any other personnel records, and are not to be disclosed without permission from the volunteer or a valid court order.