

SER 104 PRIVACY POLICY

January 20, 2021

I. **Background**

The American Library Association's Code of Ethics states, "Librarians must protect each user's right to privacy with respect to information sought or received, and materials consulted, borrowed, or acquired."

The Library Privacy Act, PA 455 of 1982 as last amended, says that "a library or an employee or agent of a library shall not release or disclose a library record or portion of a library record to a person without the written consent of the person liable for payment for or return of the materials identified in that library record, unless 1 of the following exceptions applies":

- 1) "A court has ordered the release or disclosure after giving the affected library notice of the request and an opportunity to be heard on the request."
- 2) "The library or an employee or agent of the library may report information about the delinquent account of a patron who obtains materials from the library to a collection agency under contract with the library."
- 3) "The library or an employee or agent of the library may disclose library records to another library or library cooperative for the purpose of conducting interlibrary loans".

A library record is defined as "a document, record, or other method of storing information retained by a library that contains information that personally identifies a library patron, including the patron's name, address, or telephone number or that identifies a person as having requested or obtained specific materials from a library."

A library record specifically does not include nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general or recorded video surveillance images made solely for security purposes that do not include images of any activity or any other document or record that identifies a person as having requested or lawfully obtained specific services, materials, or information resources from a library.

2. **Basic Policy**

It is the policy of Capital Area District Libraries to preserve the confidentiality of the registration, circulation and other library usage records of its patrons to the fullest extent reasonably possible under the law. Library staff members and staff of library vendors may only access library patron records when needed for work related purposes. Any personal use of such information is expressly prohibited.

Library staff and staff of library vendors will not release any library records to any person other than the person named on the record unless either i) the library has received written permission of the patron, (ii) the written permission of the person liable for payment for or return of the materials identified in that library record, or (iii) the disclosure is permitted by law.

For patrons with amounts due of \$40 or more and exceeding 60 days, contact information will be released to a collection agency for follow-up within the sole discretion of CADL.

3. Radio Frequency Identification Privacy Policy

Capital Area District Libraries supports the following privacy principles for the use of Radio Frequency Identification (RFID).

- a. Notice and full disclosure as to the use, terms of use, and any change in the terms of use for data collected via RFID will be given to library patrons.
- b. No personal information will be encoded on RFID tags. These tags will only contain the 14 digit barcode for library materials.
- c. Only library staff members will have access to the database needed to interpret the RFID tag.
- d. Capital Area District Libraries will comply with relevant federal, state, and local laws as well as industry best practices and policies in the use of RFID tags.
- e. CADL will ensure that these four principles are verifiable by an independent audit.

4. Freedom of Information Act

Library records are exempt from disclosure under the Michigan Freedom of Information Act, 1976 Public Act 442, MCL 15.231-15.246.

5. Subpoenas and Court Orders

Any library staff member receiving a verbal request, a subpoena or court order to release any library records should refer the request to the Executive Director or designee immediately.

The Executive Director or designee will review the request and consult with the library's attorney to determine if such process, order, or subpoena is allowable in accordance with applicable law.

6. Search Warrants

A search warrant is a court order issued by a judge or magistrate. It can be federal, state or local. Unlike subpoenas, in which there is always time to contact an attorney, search warrants are immediately executable. Library staff will request a brief delay to call the Executive director and library attorney.

7. Gag Orders

A gag order may accompany a search warrant. A gag order means that no person or institution served with the warrant can disclose (except to their supervisor, department head, or other person in the chain of command) 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 records are the subject of the search warrant.

The gag order does not change a Library's right to legal representation during the search. Staff members will still contact their supervisors, department heads, or Executive Director, or other necessary person in the chain of command. The Library will still seek legal advice concerning the warrant and request that the library's legal counsel be present during the actual search and execution of the warrant. The officer may or may not agree to the request because, legally, the search may begin immediately.