



## **Confidentiality of Patron Records & Law Enforcement Inquiry Policy and Procedure**

### **Confidentiality of Patron Records**

The Gates Public Library asserts that privacy is essential to the exercise of free speech, free thought and free association. Federal and State courts have established a First Amendment right to receive information in a publicly-funded library. Further, the courts have upheld the right to privacy based on the U.S. Constitution.

The right to privacy includes the right to open inquiry without having the subject of one's interest examined or scrutinized by others, in person or online. Confidentiality exists when a library is in possession of personally identifiable information about its users and keeps that information private on their behalf.

Furthermore, the Gates Public Library abides by Section 4509 of the New York State Civil Practice Law and Rules (CPLR) pertaining to the confidentiality of library records:

*Library records, which contain names or other personally identifying details regarding the users of public, free association, school, college & university libraries & 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 & shall not be disclosed except that such records may be disclosed to the extent necessary for the proper operation of such library & shall be disclosed upon request or consent of the user or pursuant to subpoena, court order, or where otherwise required by statute.*

A patron's use of the Library and its services is confidential. If anyone asks about a patron using or being at the library, the staff's standard reply is ***"Since patron information is confidential, I need to refer you to the Director."***

### **Law Enforcement Inquiry Policy and Procedure**

The Gates Public Library will assist members of law enforcement and comply with law enforcement requests subject to the limitations and procedure(s) described below.

Consistent with the American Library Association and New York Library Association Code of Ethics, the Library considers any record of information that indicates an individual's use of library services and/or facilities

to be a library record under CPLR 4509, unless specifically excluded by this policy. CPLR 44509 does leave room for mandatory disclosure “when otherwise required by statute.” Therefore, it is the policy of the Library to advise law enforcement of the need to consult the Director or his/her designee.

### **Procedure:**

The laws protecting personal privacy and criminal process are complex. Thus, all requests for information by law enforcement should be referred to legal counsel to review the request and interpret any documents such as warrants, court orders or subpoenas. Personal information that may be protected from disclosure includes a patron’s name, address, birth date, library records and information that may be stored on Library computers and/or equipment.

### **If law enforcement personnel request personal information about a patron or seek library records, computers or equipment, staff will proceed as follows:**

- Ask for identification and obtain copies of any relevant documents.
- Ask the requesting person to wait and advise him/her that Library policy requires obtaining authorization before complying with any request: “Since patron information is confidential, I need to refer you to the Director.”
- Immediately contact the Director or his/her designee (typically the Assistant Director or Librarian in charge).
- The Director or designee will then seek legal advice from the Town of Gates attorney (contact info below) or, if the attorney is unavailable, contact the ALA Office for Intellectual Freedom and ask for a referral to legal counsel.
- Again, staff should refrain from turning over any information until authorized to do so.

### **The Director, Assistant Director, or Librarian in charge should complete an Incident Report documenting:**

1. Officer’s name, badge # and affiliation (e.g. Police, Sheriff or FBI);
2. Nature of the information being sought;
3. The basis of the request; and
4. Attach copies of all documents.

### **Contacts:**

Town Attorney John DiCaro:

- Town Hall Office: (585) 247-6231
- Law Office: Shapiro, DiCaro & Barak, LLC, 175 Mile Crossing Blvd, Rochester, NY 14624; (585) 247-9000.

ALA Office for Intellectual Freedom: (800) 545-2433 x4226 4. Ask for referral to legal counsel.

Approved and adopted by Library Board: 9/25/24 (Lawyer contact info updated 4/10/25)