	HEALTH SCIENCE LIBRARIES AND TECHNOLOGIES POLICY	APPROVED BY: SR. LEADERSHIP TEAM
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**Enhanced Surveillance Provisions of the USA Patriot Law
Affecting Library Confidentiality**

Section 215: Access to Records Under Foreign Intelligence Security Act (FISA)

- Allows an FBI agent to obtain a search warrant for “any tangible thing,” which can include books, records, papers, floppy disks, data tapes, and computers with hard drives.
- Permits the FBI to compel production of library circulation records, Internet use records, and registration information stored in any medium.
- Does not require the agent to demonstrate “probable cause,” the existence of specific facts to support the belief that a crime has been committed or that the items sought are evidence of a crime. Instead, the agent only needs to claim that he believes that the records he wants may be related to an ongoing investigation related to terrorism or intelligence activities, a very low legal standard.
- Libraries or librarians served with a search warrant issued under FISA rules may not disclose, under of penalty of law, the existence of the warrant or the fact that records were produced as a result of the warrant. A patron cannot be told that his or her records were given to the FBI or that he or she is the subject of an FBI investigation.
- Overrides state library confidentiality laws protecting library records.


Codified in law at 50 U.S.C. §186

How to respond if approached by a law enforcement officer with a WARRANT for patron or other library records

Subpoenas and search warrants are almost always served during the business day, but student workers and all employees should be aware of appropriate action to take should to occasion arise.

A search warrant is different than a subpoena in that it requires immediate action on your part and can result in holding you legally accountable for a delay in the warrants execution. According to the University's attorney, both warrants and subpoenas are generally served first to the attorney's office or University Security who will assist law enforcement in identifying those who can best respond to a request. However, should that not be the case, here is what to do if served with a search warrant.

- You may review the warrant and the credentials of the officers and photocopy the warrant but not the credentials.
- You may be allowed to notify the University's attorney before fully cooperating with the request. If that is the case, do so by phoning Richard Crummins at 275-6649 or, if no answer, 275-8019. However, *this may*

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not be allowed. If you can provide the information that is being sought through the search warrant or direct the officers to that information, do so. If you can't, find someone in the library who can. However, the officers may choose to work on their own without library assistance.

- If allowed, contact the Director of Health Science Libraries and Technologies, Julia Sollenberger (275-5194 work) (271-8902 home) (305-0495 cell), and inform her of the situation. If unable to locate the director, contact Michele Shipley (275-6878 work) (271-4628 home) (370-9334 cell).
- You are permitted to copy any documents the officers take as a result of the warrant. If feasible, you should do so. They may take information off of Voyager files. They may, through their own efforts, download Voyager patron records or other library electronic files. They may seek paper files, desk records, notes, or bookmarks from personal computers; they may take hard drives, copies of e-mails, or the whole e-mail archive. All may be legal under the warrant. You must assume such is the case unless the University's attorney determines otherwise and, in his/her role as attorney, assumes responsibility for noncompliance with the warrant.
- If a law enforcement officer requests information without a subpoena or a search warrant, the library has no duty to furnish information.
- Once law enforcement leaves the premises, the director will consult with the University's attorney to be sure we meet any legal requirements to conceal the inquiries of law enforcement or, conversely, to fulfill any affirmative legal requirements to disclose what records may have been released. This varies depending on whether the inquiry is made under criminal or foreign intelligence investigation laws.


Sources of Additional Information

See the ALA Web site <<http://www.ala.org>> for:

- Library Code of Ethics
- Confidentiality and Coping with Law Enforcement Inquiries Guidelines (Resolution)
- Guidelines for Librarians on the USA. Patriot Act
- Information sources from third parties about the USA Patriot Act
- ALA Policy Concerning Confidentiality of Personally Identifiable Information About Library Users

Full text of the USA Patriot Act is available at the Government Printing Office Web site. (You will have to copy and paste the URL since it wraps on two lines.)

pdf file: http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ056.107.pdf

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History

- 02/03 Developed by Ron Dow, Dean of River Campus Libraries, in consultation with legal counsel
- 03/03 Modified and adopted by HSLT Sr. Leadership Team