	<b>HEALTH SCIENCE LIBRARIES AND TECHNOLOGIES POLICY</b>	APPROVED BY: SR. LEADERSHIP TEAM
	SECTION: PATRON RECORDS	DATE: MARCH 27, 2003
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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 SUBPOENA, asking for patron or other library records**

The procedures outlined below are valid not only for a court order under the terms of the PATRIOT ACT, but also for any and all subpoenas.

- In all circumstances, if presented with a subpoena, inform the officer that you must first notify the University of Rochester's attorney who must be permitted to review the subpoena before you can comply with the request.
- Phone University attorney Richard Crummins at 275-6649 and inform him of the situation. If his phone is not answered the backup number is 275-8019. Legal counsel will help ensure our appropriate and legal response to the subpoena, while protecting the University from possible liability due to an unlawful request.
- Then 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).

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- If the subpoena is being served outside of normal University business hours, 9-5, M-F, and the attorney's phone is not answered, inform the officer to return during business hours so proper University review of the subpoena can happen before you or anyone else responds to the request. (According to Rich Crummins, in most every case, the subpoena will be reviewed and found to be valid.)
- 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](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ056.107.pdf)  
**plain text:** [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_cong\\_public\\_laws&docid=f:publ056.107](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ056.107)

History

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 03/03 Modified and adopted by HSLT Sr. Leadership Team