

Policy and Guidance on Responding to Law Enforcement Requests for Library Records

The Board of Trustees has adopted this policy and guidance statement to assist staff if they are approached by law enforcement seeking information on a patron or another staff member.

Responsibilities of Library Staff

If a law enforcement officer requests library records or information about a library user or staff member:

- Ask for the officer's identification.
- Inform the officer that the Library Director is the individual authorized to respond to requests for records and information, and that library policy requires you to refer the officer to the Library Director.
- Refer the officer to the Library Director or to a designated alternate authorized by the Library Director to respond to requests for records and information.

If a law enforcement officer requests library records or information about a library user or staff member and neither the Library Director nor a designated alternate is present in the library:

- Ask for the officer's identification. Record the information on the identity card.
- Inform the officer that the Library Director is the individual authorized to respond to requests for records and information, and that library policy requires you to refer the officer to the Library Director.
- Attempt to reach the library director, a designated alternate, or the library's legal counsel.
- If you cannot reach the Library Director or a designated alternate, utilize the procedures outlined below for use by the Library Director or a designated alternate.

An Incident Report describing the officer's inquiry should be provided to the Library Director at the earliest opportunity.

Responsibilities of the Library Director or a designated alternate:

In all cases:

- Ask for the officer's identification. Record the information on the identity card.
- If possible, ask a colleague to be present during the interview with the officer.

Requests for voluntary assistance or warrantless searches (the officer does not present a subpoena or court order) for library use records protected by New York State law:

- Explain the library's privacy policy, informing the officer that library records and information about library users and library staff are not made available to law enforcement agencies unless a proper court order in good form has been presented to the library.
- If the officer persists, provide the officer with the contact information for the library's legal counsel and ask the officer to speak to the library's attorney and inform the officer of his right to request records under the Freedom of Information Law (FOIL).
- If the officer claims that an emergency or other circumstance requires the library to turn over records or provide information without a court order, call the library's legal counsel and ask for assistance.

- If the officer employs force to take possession of library records or other library property, do not obstruct the search in any way. Keep a written record describing the incident.
- Provide all notes and records to the library's legal counsel. If a library worker or volunteer is required to respond to a voluntary request or a warrantless search in the absence of the Library Director or a designated alternate, all materials should be turned over to the Library Director.
- In the event a request is made for video footage that after review by the Library Director does not violate a patron's right to privacy accorded by New York State law, such footage will be made available to law enforcement upon written request.

If the law enforcement officer presents a subpoena or similar request for records:

- Accept the subpoena. Inform the officer that the library's legal counsel responds to subpoenas on behalf of the library.
- Turn the subpoena over to the library's legal counsel. If a library worker or volunteer accepts service of the subpoena in the absence of the Library Director or a designated alternate, the subpoena should be turned over to the Library Director.
- The Library Director will work with the library's legal counsel to respond appropriately to the subpoena.

If the law enforcement officer presents a search warrant:

- Immediately ask the library's legal counsel to provide advice and assistance.
- Ask the officer if he or she would be willing to delay the search until the library's legal counsel arrives.
- Read the warrant and any attached documentation. Verify that it is signed by a judge and is issued by a local state or federal court. If you have questions about the validity of the warrant, call the issuing court to verify the validity of the warrant or order.
- Identify the items or records specified in the warrant. If the officer will not wait for legal counsel, you may assist the officer in locating the items or records identified in the search warrant in order to prevent review of records or items not named in the warrant.
- Do not agree to any additional searches, or volunteer information about the items or records in the warrant. Do not sign any documents on behalf of the library without the advice of the library's legal counsel.
- Ask the officers to provide an inventory of the items or records seized. Ask if it is possible to provide copies to the officers or to make copies for the library's own records.
- Do not obstruct the search in any way.
- If the law enforcement officials are unwilling to cooperate with you, simply step aside and let them do their job. Request that the officer sign an inventory receipt for the materials. Keep a written record describing the incident.
- Provide all notes and records to the library's legal counsel. If a library worker or volunteer is required to respond to a search warrant in the absence of the Library Director or a designated alternate, all materials should be turned over to the Library Director.

If an agent for the Federal Bureau of Investigation presents an order and informs you that the order is issued as part of a terrorism or espionage investigation and is subject to a "nondisclosure order" or "gag order" (Orders issued under the USA PATRIOT Act):

- Call the library's legal counsel and ask for assistance.

- Read the order and any attached documentation. If it provides a period of time to respond to the order, respond to the order in the same manner as a subpoena. Except for legal counsel, do not inform other library staff or any other person about the order until authorized to do so by the library's legal counsel.
- If the order requires the immediate surrender of records or other items, respond to the order in the same manner as a search warrant. Ask the agent if he or she will delay the search until the library's legal counsel arrives.
- If required to turn over records or other items at once, do not notify any library staff except for legal counsel and those staff members necessary for the production of the requested records or other items. (For example, it may be necessary to ask a member of the Information Technology staff to assist with the production of electronic or computer records.) Instruct all staff members who assist in responding to the order that, with the exception of legal counsel, he or she cannot inform other library staff or any other person about the order unless authorized to do so by the library's legal counsel.
- If a library worker or volunteer is required to respond to an order issued under the USA PATRIOT Act in the absence of the Library Director or a designated alternate, they should inform the Library Director as the custodian of records. It is not unlawful for library staff or volunteers to refer the agent to the Library Director or her designated alternate; however, except for legal counsel, the staff member or volunteer should not inform anyone else about the order unless authorized to do so by the library's legal counsel.