

Records Management

1. CONFIDENTIALITY OF LIBRARY RECORDS

The Library protects the privacy and confidentiality of its patrons and staff as required by state and federal law. Confidential library records, whether those records are in print, film, magnetic tape, electronic, or some other format still to be developed, shall not be released or made available to a federal agent, law enforcement officer, or other person unless a court order in proper form has been entered by a court of competent jurisdiction after a showing of good cause by the law enforcement agency or person seeking the records. (See *New York State Civil Practice Law and Rules*, Section 4509, Confidentiality of Library Records Law.) The Library Director and the Library's legal counsel are responsible for handling law enforcement requests.

2. PROCEDURES FOR HANDLING REQUESTS FOR LIBRARY RECORDS

After a federal agent or law officer has presented proper identification, he or she must be referred to the Library Director. Only the Library Director is authorized to accept the court order. Upon presentation of the court order, the Library Director will contact the Library's legal counsel for review. (If the Library Director is not available, then the Assistant Library Director will contact the Library's legal counsel.)

2.1 SUBPOENAS

- Counsel will examine the subpoena for any legal defect, including the manner in which it was served on the Library, the breadth of its request, its form, or an insufficient showing of good cause made to the court. If a defect exists, then counsel will advise on the best method to resist the subpoena.
 - The Library Director, through legal counsel, should insist that any defect be cured before records are released and that the subpoena is strictly limited to require release of specifically identified records or documents.
 - The Library Director and legal counsel will review the information that may be produced in response to the subpoena before releasing the information. The Library Director will follow the subpoena strictly and will not provide any information that is not specifically requested in it.
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- If disclosure is required, then the Library Director will ask the court to enter a protective order (drafted by the Library's counsel) keeping the information confidential and limiting its use to the particular case. The Library will ask that access be restricted to those persons working directly on the case.

2.2 SEARCH WARRANTS

- A search warrant is executable immediately, unlike a subpoena. The agent or officer may begin a search of the Library's records as soon as the Library Director is served with the court's order.
- The Library Director should ask to have the Library's legal counsel present before the search begins in order to allow legal counsel an opportunity to examine the search warrant and to assure that the search conforms to the terms of the search warrant.
- The Library will cooperate with the search to ensure that only the records identified in the warrant are produced and that no other users' records are viewed or scanned.

2.3 SEARCH WARRANTS ISSUED UNDER THE USA PATRIOT ACT AMENDMENT OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT (FISA):

- The recommendations for a regular search warrant still apply. However, a search warrant issued by a FISA court also contains a "gag order." That means that no person or institution served with the warrant can disclose 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. The Library can 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.

3. RETENTION AND DISPOSITION OF RECORDS

- 3.1 The records of the Library will be retained and disposed of in accordance with the schedules published in *Records Retention and Disposition Schedule MI-1* by The University of the State of New York and The State Education Department. The following sections are most pertinent to the Library: Library/Library System, Fiscal, and Personnel/Civil Service. The current *Schedule* is on file in the office of the Library Director and is available during normal business hours.

The Library Director shall serve as the Records Management Officer for the Library in order to insure compliance with the aforementioned *Records Retention and Disposition Schedule MI-1*.

- 3.2 The Library Director shall serve as the Records Access Officer for the Library in order to insure compliance with the *Freedom of Information Law*.