

## **Heermance Memorial Library Policy and Procedures Regarding Law Enforcement Inquiries**

The Heermance Memorial Library supports the efforts of our country to preserve and protect the security of our nation. The Library, however, also recognizes its position of special trust with members of the public. As such, the Library has the responsibility of protecting the rights and privacy of our patrons in accordance with NYS Law 4509.

This law protects library records containing names or other personally identifying details regarding the users of the library, 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. These records shall be confidential and shall not be disclosed except to the extent necessary for the proper operation of the library and upon request or consent of the user or pursuant to subpoena, court order or where otherwise required by statute.

The Library Director has been designated as the person responsible for handling law enforcement requests. All library staff should understand that it is lawful to refer an agent or officer seeking confidential information to the administrator in charge of the library and that they do not need to respond immediately to any request.

During a Visit:

1. If anyone approaches a staff member alleging to be a law enforcement official requesting information **do not disclose any information.**
2. Ask for identification and then immediately refer the agent or officer to the library director. Photocopy identification or take business card.
3. Director should meet with the agent with another colleague or library counsel in attendance
4. Ask to see the court order authorizing law enforcement.
5. If the agent or officer does not have a court order, the director should explain the library's confidentiality policy and/or the state's confidentiality law (NYS4509) and inform the agent that user's records are not available except when a proper court order is presented to the library.
6. If there is no court order presented no law enforcement officer has authority to compel cooperation with an investigation or require answers to questions (other than the name and address of the person speaking to him/her).
7. If the agent or officer does present a court order the library director should immediately refer the court order to the library's legal counsel for review.

If the court order is in the form of a search warrant:

- Search warrants are executable immediately. However, ask to have library counsel present before the search begins to allow examination of the warrant to

assure the search conforms to the terms of the warrant. (This request may not be granted.)

- Gather records identified in the warrant and present them rather than allowing non-library personnel to go through the library's records or databases.

If the court order is a search warrant issued under the Foreign Intelligence Surveillance Act (FISA) (USA PATRIOT ACT amendment):

- The recommendations for a regular search warrant still apply. However, a search warrant issued by a FISA court 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 the order. No information can be disclosed to any other party, including the director if not present at the time the warrant is served and the patron whose records are the subject of the search warrant.
- The gag order does not change the library's right to legal representation during the search. The library can still seek advice concerning the warrant and request that the library's legal counsel be present during the actual search and execution of the warrant.

If the court order is a National Security Letter:

- The procedure is the same as for a search warrant. However, a gag order applies.
- The library director should request that the library's legal counsel be present during the search. If law enforcement chooses to proceed, the library must comply.

**Adopted by the Board of Trustees of the Heermance Memorial Library June 19, 2008**  
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