

**Suggested Library Protocols under the
Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct
Terrorism Act of 2001
(U.S.A. P.A.T.R.I.O.T Act, signed into law October 26, 2001,
as an amendment to more than 15 federal statutes)**

How should library staff react if faced with a FISA Court order under the USA PATRIOT Act?

Advance preparation

1. Designate individuals who will be responsible for handling law enforcement requests in the absence of the administrative librarian.
2. Train all library staff, including student workers, on the library's procedure for handling law enforcement requests. It is lawful to refer the agent or officer to an administrator in charge of the library; immediate response to a request is not necessary.
3. Create a library confidentiality policy and review state confidentiality law with the library's legal counsel.
4. The court order may require removal of a computer workstation or other computer storage device from the library. Make arrangements to address service interruptions. Prepare for any necessary backups for equipment and software.

When the agent or other law enforcement officer comes to the library...

1. Staff must ask for identification if they are approached by an agent or officer and immediately refer the agent or officer to the administrative librarian.
2. The administrative librarian should meet with the agent and library counsel or another colleague in attendance.
3. If the agent or officer presents a court order, the administrative librarian should immediately refer the court order to the library's legal counsel for review.
4. When served with a search warrant issued by a FISA court, the person or institution served with the warrant cannot disclose that the warrant has been served or that records have been produced pursuant to the warrant.
5. When served with a search warrant issued by a FISA court, the library staff *must comply with the order*.

What if the agent doesn't have a court order?

The administrative librarian should explain the library's confidentiality policy and the state's confidentiality law, and inform the agent or officer that users' records are not available except when a proper court order issued by a judge in the proper jurisdiction has been presented to the library.

- ◆ The FBI and/or local law enforcement has authority to compel cooperation with an investigation or require answers to questions, other than the name and address of the person speaking to the agent or officer, *only with a court order*.
- ◆ The agent or officer may persist or make an appeal to patriotism. The administrative librarian should explain that, as good citizens, the library staff will not respond to informal requests for confidential information, in conformity with professional ethics, First Amendment freedoms, and state law.

For further information, see:

American Library Association, The USA Patriot Act & Intellectual Freedom, <<http://www.ala.org/ala/oif/ifissues/usapatriotact.htm>> (October 29, 2005).

Library Law.com, <<http://www.librarylaw.com/Privacy.html>> (October 20, 2005).

Harris, Stan, and Gaines Cleveland. USA PATRIOT Act: Responding to Library Concerns, *U. S. Attorney's Bulletin*, v. 52, no.4 (July 2004): 42-46.

Mary Minow, USA PATRIOT Act and Patron Privacy on Library Internet Terminals <<http://www.librarylaw.com/publicrecords.html>> (October 20, 2005).