

## **Law Enforcement Inquiries Policy and Procedures**

The Elting Memorial Library recognizes and strives to follow the practices of the [ALA Code of Ethics, Article III](#), “We protect each library user’s right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted,” to the fullest extent of our abilities. Elting Memorial Library will also support the rights and privacy of our patrons with the [Civil Practice Laws and Rules Section 4509, Library Records](#).

In the event that the Elting Memorial Library is served with a formal and legitimate request by federal and/or state authorities under the [Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism](#) (USA Patriot Act) or the [Foreign Intelligence Surveillance Act](#) (FISA), the Elting Memorial Library director and staff will comply with all specified requests.

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### **Procedures**

Should any staff member be approached by a state, federal, or local officer, they should immediately ask for identification, make a copy of that identification, and every attempt should be made to contact the Library Director. In the case that the Library Director cannot be reached, the President of the Board of Trustees should be contacted.

The Library Director or person acting in their stead should then immediately call Attorney of Record for assistance. If neither the Library Director nor Board President is reachable, the staff person should contact Attorney of Record directly. If the agent presents a court order (search warrant, subpoena, or other judicial process) it should immediately be shown to Attorney of Record for approval.

As of March 24, 2022, the Board of Trustees are seeking an Attorney of Record for the Elting Memorial Library. In the meantime, the Director may contact, Ellen Bach of WHITEMAN OSTERMAN & HANNA LLP at 518.487.7600.

Should the attorney be unreachable, Attorney of Record may be sought through the [Office for Intellectual Freedom](#) (1-800-545-2433. x. 4223) and inform the staff that you need legal advice—DO NOT disclose the reason you need legal assistance or of the existence of a warrant!

Without a court order, no officer or federal agent has the authority to compel cooperation with an investigation or require answers to questions. The staff member should only give their name and address if asked.

***If the court order is in the form of a SEARCH WARRANT***

A [search warrant](#) is a warrant issued by the competent authority authorizing a police officer to search a specified place for evidence even without the occupant's consent.

A search warrant may be executed immediately and may be served to any employee. Should a warrant be served, contact the Director. The Director will contact Attorney of Record. Should the Director not be reachable, cooperate with the agent to the best of your ability and continue to try to contact the Director, the Board President, or as a last resort, Attorney of Record.

Ask the agent serving the warrant to wait for Attorney of Record to arrive to approve the warrant and assure that the search conforms to the terms of the warrant. The agent may or may not delay their search for Attorney of Record to arrive. Should they not wait, the responding onsite designee should read the warrant to the best of their ability, in an attempt to insure that it is valid. If there is a question of validity, contact the local court for assistance.

Cooperate with the search, only to the extent of identified records on the warrant. Gather records identified in the warrant and present them rather than allowing non-library personnel to go through the Library's database or records. The employee will cooperate fully with the request.

The employee should record and keep an inventory of the records or items seized, and if possible, make copies for the agent so as to keep the originals.

Should the warrant served be issued under FISA ([Foreign Intelligence Surveillance Act](#)), a “gag order” may be in effect and, thus no one, under any circumstances should disclose that the institution was served with the warrant or that records have been produced pursuant to the warrant. This means that no information can be disclosed to the patron whose records are the subject of the search warrant. Under the March 9, 2006 reauthorization, the gag rule of who can be informed has been slightly loosened suggesting that anyone necessary to respond to the request can be called. ALL staff must comply with this order. Staff should still attempt to contact the Director and/or Attorney of Record.

***If the court order is in the form of a NATIONAL SECURITY LETTER***

A [national security letter](#) is used to obtain information from companies as part of national security-related investigations.

The procedure is the same as for a search warrant. However, a gag order applies. The Director will contact Library Attorney of Record. If the Director is not available, contact the Board President. They may request that the Library’s Attorney of Record be present during the search and that the search be delayed until Attorney of Record examines the court document. If law enforcement chooses to proceed, the Library must comply.

***If the court order is in the form of a SUBPOENA***

A [subpoena](#) is a court order that requires a party (or a witness who is not a party) to come to court to testify.

A subpoena does not require an immediate response. Accept the subpoena, make a copy of it, and submit it immediately to Attorney of Record.

Attorney of Record will examine the document for any legal defect and if finding any, advise the Library on the best method to decline the subpoena. Through Attorney of Record the Director will 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 Attorney or Director will require that the agent, officer, or party requesting the information submit a new subpoena in good form and without defects.

If the subpoena is in good order, the Director will review the document for all requested information and will follow the subpoena strictly. Only provide information specified in the subpoena – do not provide any information not specified in the subpoena.

If disclosure is required, the Library may ask the court for a protective order keeping the information confidential and limiting it to the particular case and the specific purpose for which it was requested, and ask that access be restricted to those persons working directly on the case.

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### **AFTER the visit and search**

The Director and Attorney of Record are to review the subpoena or search warrant to ensure that the Library complies with any remaining requirements, including restrictions on sharing information with others.

The Director and Board President shall be responsible for communicating with the public and the media.

Adopted: Thursday, March 24, 2022