

# Angelo State University Library

## Policy and Procedure Memorandum

### PPM #12: Response to Legal Requests for Library Records or other Patron Information

LAST DATE OF REVIEW

21 February 2018

SCHEDULE FOR REVIEW

This PPM will be reviewed in June of odd-numbered years by the Executive Director of Library Services in consultation with University Library Committee.

## DIRECTOR'S NOTE

**13 September 2020**

- During the COVID-19 pandemic, PPMs and LPs may be **temporarily amended** to balance public health considerations with the library's service and operation responsibilities. Any amendment of this nature in no way supersedes the traditional collaboration between the library and the University Library Committee for regular scrutiny of governing documents.
- Any concerns or questions regarding this PPM's content – traditional or temporary – should be sent to Chris Matz [chris.matz@angelo.edu](mailto:chris.matz@angelo.edu)

The purpose of this policy is to assist and inform Library staff members of their obligations when the Library receives a legal request to view or copy Angelo State University Library records or other patron information. The Library and its staff members will comply with all lawful requests for information and does not intend to impede any lawful investigation. In addition, the Library will comply with its responsibilities as a state agency under the provisions of the Texas Public Information Act (TPIA). The TPIA law requires a prompt response (10 working days) to requests for information maintained by the university. For additional information concerning the University's compliance with legal and/or formal requests for information, please see University OP 01.02. This University OP must be reviewed by all Library staff members with responsibility for staffing public service points in the Library<sup>1</sup>.

## **POLICY/PROCEDURE**

### **I. Privacy of Library Circulation Records**

#### **A. Exemptions for Library Circulation Records**

Under Section 552.124 of the Texas Public Information Act, "A record of a library or library system, supported in whole or in part by public funds, that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from the requirements of Section 552.021 unless the record is disclosed:

1. because the library or library system determines that disclosure is reasonably necessary for the operation of the library or library system and the record is not confidential under other state or federal law;
2. under Section 552.0233; or
3. to a law enforcement agency or a prosecutor under a court order or subpoena obtained after showing to a district court that:
  - a. disclosure of the record is necessary to protect the public safety; or
  - b. the record is evidence of an offense or constitutes evidence that a particular person committed an offense.

A record of a library or library system that is excepted from required disclosure under this section is confidential."

#### **B. Confidentiality of Circulation Records**

1. Any Library record which connects a call number, author, or title with the name or ID of a Library user is a private record and not available to anyone except Library staff members for official business.
2. Library staff members will exercise all appropriate measures to insure the privacy of users of the Library.
3. All computer printouts, manual checkouts, and any other record of circulation must be disposed of with care<sup>4</sup>.

### **II. Compliance with Judicial Warrant or Subpoena.**

#### **A. Authorized Respondents**

No Library staff member, on his/her own authority, is authorized to respond substantively to any form of judicial warrant or subpoena (written, oral, official, or otherwise) or to provide any Library user specific or Library business information, in writing or oral form. The Library staff member must immediately notify the Director and the Director of the Communications and Marketing, who is designated as the University's "Officer of Public Information"<sup>5</sup> for purposes of notifying the Texas Tech University System's legal office<sup>6</sup>.

### B. Initial Response

The requesting law enforcement official should be invited into a private office by the individual in charge of the Library at that time. Please request identification from the officer and record the name, title, agency, and telephone number of the individual and request a copy of the warrant or subpoena and any associated documents. If the warrant or subpoena requires production at a future time, the officer may simply leave a copy with the Director's Office. If a signature is requested, inform the officer that only the Director of the Library, upon official authorization from the System's legal representative, is authorized to sign and accept the warrant or subpoena. If the warrant or subpoena authorizes immediate search and seizure, inform the officer that the Director and Public Information Officer have been contacted and request patience. Remember to be polite and friendly at all times.

### C. Secrecy Demands

The officer may inform the Library staff member that the terms of the warrant or subpoena are "secret" or "sealed" and that the staff member may not disclose any information relating to the warrant or subpoena or execution of the document. Under the terms of the USA PATRIOT Act, this may be true. That does not preclude the Library staff member from contacting the Director or the Public Information Officer, unless the Director or the Public Information Officer is the subject of the warrant or subpoena.

### D. Immediate Enforcement

If the officer will not wait, politely remind the officer that the Library is an innocent third party and that constitutional considerations, Texas law, and good faith suggest that a brief delay is appropriate. If the officer insists on proceeding immediately, the staff member should carefully inspect the warrant or subpoena and monitor the search. Please remember that the objective is to minimize disruption to the operations of the Library but not to impede or obstruct the officer. Some specific steps to undertake include the following:

1. Enlist the assistance of another professional or support staff member to help with record keeping, monitoring the search, and recording of events.
2. Ensure the warrant or subpoena is signed by a magistrate or judge.
3. Record exactly what records or items are authorized to be seized and/or examined.
4. Offer to provide copies of electronic information in lieu of seizure of hardware. If recordable media or paper records are seized, request the opportunity to make copies before they are removed.
5. Record areas and rooms entered, files and computers inspected, and/or specific actions taken.
6. Note and advise the officer if information is being seized that appears to be in excess of that authorized by the warrant or subpoena.
7. Note and advise the officer if information is being seized that is privileged (patron specific, employee records, etc.), and ask that it be so marked.

### E. Follow Up

At the conclusion of the search, the officer should provide an inventory. If the officer does not, request a copy, but do not sign any statement confirming that the inventory is accurate or complete. Whether or not the judicial warrant or subpoena is secret or sealed, remind all staff members not to discuss the matter with the media, other Library users, family, or other University staff members since decisions in this regard must be made by the Director and the Public Information Officer.

## III. Records Retention.

### a. Records Retention Schedule

The University has an accepted Records Retention Schedule (See R Drive under the "Records Retention" folder.)

- b. Library Policy. The Library will follow those guidelines in maintaining and preserving all Library records related to the operations and business transactions.

- 1 Open records requests are detailed in a Library procedure document entitled "Responding to an Open Records Request."
- 2 Hereafter cited as Director.
- 3 Information about a particular person held by a government agency that is normally protected from disclosure to the general public may be accessible to either that person or that person's authorized representative.
- 4 The library automation system's circulation module automatically deletes user information upon return of the materials. All circulation records created by departments outside of the circulation module should be destroyed in such a manner as to make it impossible to link a user with materials used. For additional information, see Section III for information on retention of records.
- 5 Hereafter cited as Public Information Officer. 6 Contact information for both the Director and the Public Information Officer are maintained in the Director's Office and at the Circulation Desk.