

Law Enforcement Inquiries Policy

Bacon Library supports the efforts of our country to preserve and protect the security of our nation. Bacon Library, however, recognizes its position of special trust with members of the public. As the choice of books and other library materials, along with the use of the information resources of the Library is essentially a private endeavor on the part of each individual patron, the Library has the responsibility of protecting the rights and privacy of our patrons in accordance with MI Act 455 of 1982.

The Library Director has been designated as the person responsible for handling all law enforcement requests and as such should be alerted immediately when a request is made to any other library employee or staff member. However, if the Library Director is unavailable or cannot be reached, the Administrator in Charge of the library should be alerted of the request. All library staff should understand that it is important to refer the law enforcement agent or officer to the Library Director or Administrator in Charge of the library immediately upon receiving a request from law enforcement, and that they should not attempt to answer or satisfy the request themselves.

During a visit:

If anyone approaches a staff member alleging to be a law enforcement official requesting information, library personnel should not disclose any information to them without first consulting with and alerting the Library Director or the Administrator in Charge of the Library.

Library personnel should ask the person for his identification or business card. They should also ask to see any legal document or court order(s) (for example, search warrant, subpoena, National Security Letter) which describes the legal basis for the person's visit to the library. After these initial requests, library personnel should immediately alert the Library Director, the Administrator in Charge or other designated staff of the agent or officer's presence at the library.

The Library Director, Administrator in Charge or other designated staff will meet with the law enforcement agent or officer along with the Library Counsel, if available, in order to facilitate and process the request.

If the law enforcement agent or officer does not present a court order or other legal document compelling the production of records:

The Library Director, or Administrator in Charge should explain the library's confidentiality policy and/or the state's confidentiality law (MI Act 455 of 1982) to the law enforcement agent or officer and inform him that library users' records are not available except when a proper court order in good form has been presented to the library.

The law enforcement agent or officer has no legal authority to compel the Library's cooperation with an investigation or require answers to questions (other than the name and address of the

person speaking to him/her). If the agent or officer makes an appeal to patriotism, the Library Director, Administrator in Charge or other designated staff will explain that the library staff cannot and will not respond to informal requests for confidential information.

If the law enforcement agent or officer does present a court order:

The Library Director shall immediately contact Library Counsel, provide counsel with a copy of the court order or legal document and await further instruction from Library Counsel as to the procedure and manner of answering the request.

If the court order is in the form of a subpoena:

Library Counsel will examine the subpoena. If it is determined by Library Counsel that the subpoena is defective or deficient in some manner, Library Counsel will advise the Library Director or Administrator in Charge of the best method and procedure for answering or opposing the subpoena.

To the extent allowed by applicable law, any documents, records or information should not be released until, any and all defects in the subpoena are cured. Furthermore, Library Counsel shall release only those documents, records or information that are clearly identified in the subpoena.

Library Counsel and Library Director shall review the documents, records or information that may be produced in response to the subpoena before releasing them to the requesting party for purposes of insuring that confidential or privileged information remains confidential.

If disclosure is required pursuant to the subpoena, Library Counsel may wish to draft a request to the court asking for the entry of a protective order to keep confidential the information found in the documents and records and to limit its use to the particular case. The motion should also ask that access to the documents, records and information be restricted to those persons actively and directly working on the case.

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

Law Enforcement agents or officers may execute a search warrant on the premises immediately if they possess a search warrant signed by a judge. Once the agents or officers present the search warrant, the Library Director, the Administrator in Charge and Library Counsel should immediately be made aware of the existence of the search warrant so that appropriate steps can be taken to insure the orderly execution of the search warrant. Library personnel should ask law enforcement agents or officers to allow for Library Counsel to be present before the search begins or for the opportunity to allow Library Counsel to examine the warrant. It is important to note that this request may not be granted. All library personnel and staff shall cooperate fully with the orders of law enforcement agents or officers before, during and after the execution of the search warrant.

Under federal and state law and pursuant to the authority granted by the search warrant, law enforcement agents or officers are under no duty to allow library personnel or anyone else to assist

in the execution of the search warrant. If law enforcement agents or officers request assistance, all library personnel shall inform Library Counsel before lending assistance and await instructions from Library Counsel or the Library Director prior to lending assistance.

If the court order is a search warrant issued under the Foreign Intelligence Surveillance Act (FISA) (USA PATRIOT ACT of 2001 amendment):

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 Director if not present at the time warrant is served and 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.

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 Director will contact Library counsel. If the Director is not available, contact the Assistant Director or Librarian in charge. S/he may request that the Library's legal counsel be present during the search and that the search be delayed until counsel examines the court document. If law enforcement chooses to proceed, the Library must comply.

The Board recognizes that it is only through continued public confidence in the fact that these guidelines are being upheld that the public can maintain its confidence in the public library.