

# MARSHALL PUBLIC LIBRARY

## Circulation Policy

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April 13, 2006

**RESPECTFULLY SUBMITTED  
TO THE  
CITY OFFICIALS AND ADMINISTRATORS  
OF THE  
CITY OF MARSHALL**

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WITH THE CITY OF MARSHALL,  
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## CIRCULATION POLICY MARSHALL PUBLIC LIBRARY

The Marshall Public Library is a department of the City of Marshall. The library serves all residents of the City of Marshall and, through interlocal agreement, other citizens of Harrison County. Other service agreements may also be in effect (see Appendices). Service will not be denied or abridged because of religious, racial, social, economic, or political status; or because of mental, emotional, or physical conditions; age; or sexual orientation.

The use of the library may be denied for due cause. Such causes may be failure to return library materials or to pay fines, destruction of library property, disturbance of other library consumers, any other illegal, disruptive, or objectionable conduct on library property, or violation of other adopted library policies.

### LIBRARY CARDS

To check out materials or use the computer, a library consumer must present a Marshall Public Library card. The first library card for Harrison County residents is free. To obtain a library card, an individual must present a valid Texas driver's license or Texas state ID. Individuals with temporary Texas driver's license or temporary Texas state ID must also present photo identification. Other acceptable documents include a Harrison County voter registration card or Harrison County property tax receipt presented with photo identification. These four documents are the only documents which will be accepted for library card application.

Out-of-state local college students (ETBU, Panola, TSTC, and Wiley) must show a current, valid student ID along with their valid driver's license or state ID. Out-of-country local college students (ETBU, Panola, TSTC, and Wiley) must show a current, valid student ID along with their valid passport. Interlocal agreements between each college and the City of Marshall will be pursued and handled in separate documentation.

Out-of-state visitors wishing to check out materials must pay a non-resident fee annually (see Appendices).

Individuals with an old library card (without a photo) who have overdue books or outstanding fines must clear delinquent accounts before receiving a new library card (with barcode and photo).

Each library card application (both paper and online version) must be signed, thereby assuming responsibility for use of the card and constituting an agreement to abide by the rules set forth by the City of Marshall. The agreement on the library card application states:

*"I am responsible for all materials borrowed on this card, which must be presented for Internet use and each loan. I accept responsibility for all fines, charges for all lost or damaged materials, collection and attorney*

*fees incurred on this card, etc. I agree to abide by the policies of the Marshall Public Library.”*

The Marshall Public Library will not issue a card to individuals under 18 years of age when a parent or legal guardian is not present. Because a parent or legal guardian assumes responsibility for children’s fines, fees, damages, or loss of materials, a parent or legal guardian must apply for a library card before or at the same time as their child(ren). A parent or legal guardian’s signature is required on library card applications for children under the age of eighteen (18). Married individuals under 18 years of age must bring a marriage license. If a parent or legal guardian is concerned about their child(ren)’s access to materials, the Marshall Public Library requires them to accompany their child(ren) and assist them in making their selections. The library does not act *in loco parentis*.

Cardholders are responsible for keeping their library card; the Marshall Public Library cannot be responsible for safeguarding a library consumer’s library card. Replacement cards are charged a minimal fee (see Appendices) which must be paid at the time the replacement card is printed. At the discretion of the library staff, replacement card fees will not be charged when a library consumer’s picture is no longer recognizable, the card is worn out, or the library consumer has changed his/her name.

Visitors to the Marshall Public Library are granted one 30-day temporary computer access during a twelve-month period by showing a valid driver’s license, state ID, military ID or passport, by reading and agreeing to abide by the Marshall Public Library Internet Use Policy, and by signing a library card application (paper version) which constitutes an agreement to abide by the rules set forth by the City of Marshall.

### CHECKOUT LIMITS

For the first 90 days after receiving a library card, adults may check-out 3 items (including 1 video), children (ages 6-17) may check out 3 items, and babies (ages 5 and under) may check out one Easy book at one time. After 90 days, adults may check out 10 items (including a maximum of 3 videos), and children may check out 10 items. Babies are limited to one Easy book until their 6<sup>th</sup> birthday. Children and babies may not check out videos of any type. Library consumers may only check-out a maximum of 5 best-sellers at a time due to their popularity and limited number of copies available. Out-of-state visitors may check out only 3 items per visit during their annual membership.

### CIRCULATION PERIODS

All circulating items are checked out for 2 weeks (14 days). Reference material and magazines (including past years’ issues) are non-circulating and must remain in the library at all times. Any circulating item may be renewed by phone, at the circulation desk, or online via the library’s website for an additional 2 weeks with the exception of best-sellers (materials with red or green dots on the cover and/or spine) or materials on hold. Once the renewal limit has been reached and the item(s) returned, an individual

may not check out the same material(s) again until the item(s) have been on the shelf for a period of 24 hours.

### FINES AND OVERDUES

Overdue books, sound recordings (audio books, CDs), videos, and DVDs will accrue a minimum fine per day, per item up to the maximum. Interlibrary loan materials are charged a minimum late fee per day with no maximum. Library consumers with outstanding fine balances must pay off fines in order to check out library materials or have computer access. (See Appendices)

Library materials that are not returned on or before the due date are considered overdue. Once materials are overdue, a library consumer's account is blocked and the library consumer will lose library privileges (including computer access and Interlibrary Loan) until the overdue material is returned or the replacement fees of the material are paid.

### OVERDUE NOTICES

Overdue items may be renewed one time to stop fines from accruing. If an item is overdue for 2 weeks, an overdue notice is generated by Library.Solution (Marshall Public Library's automation system). 1<sup>st</sup>, 2<sup>nd</sup>, and Final overdue notices are generated and printed twice weekly for library consumers who have overdue items. For the first notice, overdue items are searched for on the shelf by library staff. If the item is not located, then the library consumer is notified via a recorded message by PhoneTree, the library's overdue management system. Library consumers not contacted by phone are mailed an overdue notice. All final notices are mailed.

At any point after the first notice, library consumers may be notified that if the material(s) is not returned by a specified date City Ordinance Section 16 A-6 will be invoked or their account will be charged for the material(s) plus a processing fee per overdue item. Once the material(s) is charged to a library consumer's account, the item(s) becomes the property of the library consumer. To check-out additional item(s), all charges must be paid off.

### LOST MATERIALS

When library consumers claim their library material is lost, they will be responsible for the replacement price of the item(s) plus a processing fee for each item. If a lost item is overdue at the time a library consumer wishes to pay for the item, the overdue fine is not charged. The replacement price is listed in the library's database. Those items without a replacement price noted will be assessed the default replacement price. Some materials (such as cassettes and CDs) may be assessed additional charges to cover shipping and handling. Once the material(s) is claimed lost and replacement fees are charged, the Marshall Public Library cannot accept the material(s) or give a refund if the material is later found. Failure to pay the assessed charges will result in the loss of library privileges until the matter is resolved.

Replacements for lost items will sometimes be accepted by the Library Director and will be charged the fine plus processing fee. Items must be an exact match (title, author, publisher, pages) and in pristine condition in order to be accepted as a replacement copy.

### CLAIMS RETURNED/CLAIMS NEVER HAD

While there are instances of library consumers claiming library material has been returned or never checked-out, these cases are rare. As these situations arise, the Circulation Supervisor, Public Services Librarian, Assistant Director, and/or Director will intervene as appropriate. A record of the number of times a library consumer makes such claims will remain part of library records which will be consulted for determination of action.

### DAMAGED MATERIALS

Library consumers are responsible for all materials checked out on their library card and are liable for the damages which may occur to library materials. The library staff will notify the library consumer of payment due for the replacement of the damaged items. Materials that are damaged will be charged a minimal fee or a replacement fee plus a processing fee as determined by the Circulation Supervisor (see Appendices). Damages include, but are not limited to, torn, marked, or wet pages, cover breakage, pages that have been removed, or other problems that make the material unusable. If a damaged item is overdue at the time a library consumer wishes to pay for the item, only the replacement price plus processing fee will be charged. Other damaged items not requiring replacement will be charged mending fees and overdue fines.

Replacements for damaged items will sometimes be accepted by the Library Director and will be charged any overdue fine plus processing fee. Items must be an exact match (title, author, publisher, pages) and in pristine condition in order to be accepted as a replacement copy.

### INTERLIBRARY LOAN

Materials from the collections of other public, academic, and special libraries may be borrowed through Interlibrary Loan (ILL). Libraries typically do not lend rare or fragile items, audio-visual materials or items in high demand. Most libraries do not lend new releases, genealogy, microfilm, or items designated as reference in their catalog. Materials labeled "For Library Use Only" must remain in the library, but access to the material will be available. Libraries are under no obligation to lend materials.

Library consumers with a valid library card in good standing may request books, audio books, videos, or copies of journal or periodical articles which are not in the library's collection. Interlibrary Loan request forms are available at the library. One form per request is necessary. Limits may apply at the discretion of the Library Director. A minimum fee to cover postage costs (see Appendices) may be charged to the library

consumer's account when ILL items are received. Lending libraries may charge for journal or periodical articles. In this instance, the Marshall Public Library will pass on the charges to the library consumer. Lending libraries also set due dates and these are enforced by the Marshall Public Library.

The library consumer who requests items through Interlibrary Loan must be the one to pick them up. Library consumers who fail to pick up the material after notification by library staff must still pay the minimum fee, if originally assessed, for each unclaimed title. Any overdue ILL item is assessed a minimum charge (see Appendices) per day late fee with no maximum. Library consumers with overdue ILL items will not be allowed to check-out materials from the Marshall Public Library until the overdue ILL material is returned and any fees paid. Additionally, lost Interlibrary Loan items will be assessed charges by the rules in effect for the lending library plus a processing fee (see Appendices).

### RESERVES

Any library consumer with a valid library card and in good standing (those without fines and overdue items) may reserve up to 5 items at a time with a limit of 3 best-sellers at any given time. Initially, library consumers must register with library staff, giving a Personal Identification Number (PIN). Library consumers are responsible for remembering their PIN as the library staff cannot access the information once it is entered into the circulation system. Library consumers may reserve any checked-out item online through the library's website or through the Public Access Catalog in the library. Library consumers may also update their account, renew items, and change their PIN.

Library staff will contact library consumers by telephone immediately when the requested item is available for pick-up. Items not picked up by the end of the next library business day following telephone notification will be returned to the shelf or given to the next library consumer on the waiting list.

### PRIVACY/CONFIDENTIALITY OF LIBRARY RECORDS

The Marshall Public Library supports every library consumer's right to have his or her records remain confidential. Records of consumer transactions are kept only as long as is required to collect administrative statistics and then are erased. Library records will only be disclosed under court order, subpoena, or warrant as outlined in the state statute, Texas Government Code, Section 552.124 and the surveillance provisions included in The USA PATRIOT Act (Public Law 107-56).

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Marshall Public Library  
Library Card Application

First Name

Middle Initial/Name

Last Name

Mailing Address

City

State

Zip Code

Physical Address (if different)

City

State

Zip Code

Home Phone

Work Phone

Date of Birth

Gender

Driver's License Number

I am responsible for all materials borrowed on this card, which must be presented for Internet use and each loan. I accept responsibility for all fines, charges for all lost or damaged materials, collection and attorney fees incurred on this card, etc. I agree to abide by the policies of the Marshall Public Library.

*Please circle Internet use option. Parents must select option for minors under 18.*

- Any workstation
- Filtered workstation only
- With parent only
- None

Library Consumer Signature \_\_\_\_\_

Parent Signature \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

Address changes, phone changes, and lost cards must be reported promptly. A fee will be charged to replace lost card.

## FINES AND FEES

ITEM		FEE
LIBRARY CARDS	Replacement Card	\$5.00 each
	Out-of-State Card	\$25.00 per year
OVERDUE FINES	Book or Sound Recording	.15 per day (maximum \$5.00)
	Video	\$2.00 per day (maximum \$10.00)
	Interlibrary Loan	\$1.00 per day with no maximum
DAMAGED MATERIALS	Library Material	Replacement price plus \$5.00 processing fee
	Rebinding Library Material	\$8.00-\$15.00
	Cassette Case	\$3.50-\$10.00 per case
	CD Case	\$10.00-\$20.00 per case
	Video Case	\$3.50 per case
	Interlibrary Loan (ILL)	Cost assessed by lending library, plus \$25 processing fee
	Other	As determined by Circulation Supervisor
LOST MATERIALS	Library Book, Sound Recording, Video	Replacement price plus \$5.00 processing fee
	Interlibrary Loan (ILL)	Cost assessed by lending library, plus \$25 processing fee
	Replacement Cassette/CD	Replacement price plus shipping fee and \$5.00 processing fee
DEFAULT FEES FOR MATERIALS	Easy and Juvenile Book	\$20.01 per item
	Adult Book	\$25.01 per item
	Cassette/CD	\$75.01 per item
	Videos	\$15.01 per item
	DVDs	\$25.01 per item
OTHER FEES	Photocopying	.10 per sheet
	Computer Prints (black & white)	.10 per sheet
	Computer Prints (color)	.50 per sheet
	Computer Disk	\$1.00 per disk
	Computer CD	\$1.00 per disk
	Interlibrary Loan (ILL)	\$2.00 if applicable and/or other lending library charges

## SERVICE AGREEMENTS

### Loan Star Libraries

Loan Star Libraries is a direct state aid program for Texas public libraries. It is based on a partnership between the state of Texas and local political jurisdictions intended, in part, to:

- improve public library services statewide
- ensure access to adequate public library resources and services for all Texans
- build the capacity of each public library to serve as the information resource and lifelong learning center for their community

As a participant in the Loan Star Libraries program, the Marshall Public Library offers the same free library services to Texas residents as it offers services to Marshall and Harrison County citizens. Texas residents with a valid Texas driver's license or state ID are eligible to receive a Marshall Public Library card at no cost.

### TexShare

Marshall Public Library participates in the TexShare card program which is a reciprocal borrowing program established by the Texas State Library and Archives Commission. It is designed as a service to offer wider access to information and services. This card allows the cardholder borrowing privileges at all TexShare libraries throughout the state of Texas. This includes libraries at all public and most private colleges and universities, as well as participating public libraries that belong to one of the regional library systems.

The card program allows registered users of participating TexShare libraries to obtain a TexShare card at their home library and use the card to borrow materials directly from other participating libraries.

Library consumers must have a valid TexShare card from their own library, a valid driver's license or state issued ID card with photo showing their home address, a valid library card from their home library, and a parent's signature of library consumers under sixteen (any or all of these stipulations, according to your library's policy).

The cardholder should return items to the lending library and is solely responsible for any expense involved in returning the items and for all fines and fees accrued at other libraries. Library consumers may have their TexShare card revoked if they have outstanding fees or fines with any TexShare Library. Failure to return materials or to pay outstanding charges will result not only in the cancellation of TexShare privileges, but also in the suspension of borrowing privileges with the Marshall Public Library.

## LIBRARY BILL OF RIGHTS

The American Library Association affirms that all libraries are forums for information and ideas, and that the following basic policies should guide their services.

- I. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
- II. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
- III. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
- IV. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
- V. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
- VI. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.

Adopted June 18, 1948.  
Amended February 2, 1961, and January 23, 1980,  
inclusion of "age" reaffirmed January 23, 1996,  
by the ALA Council.

# PRIVACY

## An Interpretation of the *Library Bill of Rights*

### Introduction

Privacy is essential to the exercise of free speech, free thought, and free association. The courts have established a First Amendment right to receive information in a publicly funded library.<sup>i</sup> Further, the courts have upheld the right to privacy based on the Bill of Rights of the U.S. Constitution.<sup>ii</sup> Many states provide guarantees of privacy in their constitutions and statute law.<sup>iii</sup> Numerous decisions in case law have defined and extended rights to privacy.<sup>iv</sup>

In a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one's interest examined or scrutinized by others. Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf.<sup>v</sup>

Protecting user privacy and confidentiality has long been an integral part of the mission of libraries. The ALA has affirmed a right to privacy since 1939.<sup>vi</sup> Existing ALA policies affirm that confidentiality is crucial to freedom of inquiry.<sup>vii</sup> Rights to privacy and confidentiality also are implicit in the *Library Bill of Rights*<sup>8</sup> guarantee of free access to library resources for all users.

### Rights of Library Users

The *Library Bill of Rights* affirms the ethical imperative to provide unrestricted access to information and to guard against impediments to open inquiry. Article IV states: "Libraries should cooperate with all persons and groups concerned with resisting abridgement of free expression and free access to ideas." When users recognize or fear that their privacy or confidentiality is compromised, true freedom of inquiry no longer exists.

In all areas of librarianship, best practice leaves the user in control of as many choices as possible. These include decisions about the selection of, access to, and use of information. Lack of privacy and confidentiality has a chilling effect on users' choices. All users have a right to be free from any unreasonable intrusion into or surveillance of their lawful library use.

Users have the right to be informed what policies and procedures govern the amount and retention of personally identifiable information, why that information is necessary for the library, and what the user can do to maintain his or her privacy. Library users expect and in many places have a legal right to have their information protected and kept private and confidential by anyone with direct or indirect access to that information. In addition, Article V of the *Library Bill of Rights* states: "A person's right to use a library should not be denied or abridged because of origin, age, background, or views." This article precludes the use of profiling as a basis for any breach of privacy rights. Users have the right to use a library without any abridgement of privacy that may result from equating the subject of their inquiry with behavior.<sup>9</sup>

## Responsibilities in Libraries

The library profession has a long-standing commitment to an ethic of facilitating, not monitoring, access to information. This commitment is implemented locally through development, adoption, and adherence to privacy policies that are consistent with applicable federal, state, and local law. Everyone (paid or unpaid) who provides governance, administration, or service in libraries has a responsibility to maintain an environment respectful and protective of the privacy of all users. Users have the responsibility to respect each other's privacy.

For administrative purposes, librarians may establish appropriate time, place, and manner restrictions on the use of library resources.<sup>10</sup> In keeping with this principle, the collection of personally identifiable information should only be a matter of routine or policy when necessary for the fulfillment of the mission of the library. Regardless of the technology used, everyone who collects or accesses personally identifiable information in any format has a legal and ethical obligation to protect confidentiality.

## Conclusion

The American Library Association affirms that rights of privacy are necessary for intellectual freedom and are fundamental to the ethics and practice of librarianship.

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<sup>i</sup> Court opinions establishing a right to receive information in a public library include *Board of Education. v. Pico*, 457 U.S. 853 (1982); *Kreimer v. Bureau Of Police For The Town Of Morristown*, 958 F.2d 1242 (3d Cir. 1992); and *Reno v. American Civil Liberties Union*, 117 S.Ct. 2329, 138 L.Ed.2d 874 (1997).

<sup>ii</sup> See in particular the Fourth Amendment's guarantee of "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures," the Fifth Amendment's guarantee against self-incrimination, and the Ninth Amendment's guarantee that "[t]he enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."

This right is explicit in Article Twelve of the Universal Declaration of Human Rights: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks." See: <http://www.un.org/Overview/rights.html>. This right has further been explicitly codified as Article Seventeen of the "International Covenant on Civil and Political Rights," a legally binding international human rights agreement ratified by the United States on June 8, 1992. See: [http://www.unhchr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhchr.ch/html/menu3/b/a_ccpr.htm).

<sup>iii</sup> Ten state constitutions guarantee a right of privacy or bar unreasonable intrusions into citizens' privacy. Forty-eight states protect the confidentiality of library users' records by law, and the attorneys general in the remaining two states have issued opinions recognizing the privacy of users' library records. See: <http://www.ala.org/alaorg/oif/stateprivacylaws.html>.

<sup>iv</sup> Cases recognizing a right to privacy include: *NAACP v. Alabama*, 357 U.S. 449 (1958); *Griswold v. Connecticut*, 381 U.S. 479 (1965); *Katz v. United States*, 389 U.S. 347 (1967); and *Stanley v. Georgia*, 394 U.S. 557 (1969). Congress recognized the right to privacy in the *Privacy Act of 1974 and Amendments* (5 USC Sec. 552a), which addresses the potential for government's violation of privacy through its collection of personal information. The Privacy Act's "Congressional Findings and Statement of Purpose" state in part: "the right to privacy is a personal and fundamental right protected by the Constitution of the United States." See: [http://caselaw.lp.findlaw.com/scripts/ts\\_search.pl?title=5&sec=552a](http://caselaw.lp.findlaw.com/scripts/ts_search.pl?title=5&sec=552a).

<sup>v</sup> The phrase "Personally identifiable information" was established in ALA policy in 1991. See: *Policy Concerning Confidentiality of Personally Identifiable Information about Library Users* ([http://www.ala.org/alaorg/oif/pol\\_user.html](http://www.ala.org/alaorg/oif/pol_user.html)). Personally identifiable information can include many types of library records, for instance: information that the library requires an individual to provide in order to be eligible to use library services or borrow materials, information that identifies an individual as having requested or obtained specific materials or materials on a particular subject, and information that is provided by an individual to assist a library staff member to answer a specific question or provide

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information on a particular subject. Personally identifiable information does not include information that does not identify any individual and that is retained only for the purpose of studying or evaluating the use of a library and its materials and services. Personally identifiable information does include any data that can link choices of taste, interest, or research with a specific individual.

<sup>vi</sup> Article Eleven of the *Code of Ethics for Librarians* (1939) asserted that “It is the librarian’s obligation to treat as confidential any private information obtained through contact with library patrons.” See: <http://www.ala.org/alaorg/oif/1939code.html>. Article Three of the current *Code* (1995) states: “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.” See: <http://www.ala.org/alaorg/oif/ethics.html>.

<sup>vii</sup> See these ALA Policies: *Access for Children and Young People to Videotapes and Other Nonprint Formats* ([http://www.ala.org/alaorg/oif/acc\\_chil.html](http://www.ala.org/alaorg/oif/acc_chil.html)); *Free Access to Libraries for Minors* ([http://www.ala.org/alaorg/oif/free\\_min.html](http://www.ala.org/alaorg/oif/free_min.html)); *Freedom to Read* (<http://www.ala.org/alaorg/oif/freeread.html>); *Libraries: An American Value* ([http://www.ala.org/alaorg/oif/lib\\_val.html](http://www.ala.org/alaorg/oif/lib_val.html)); the newly revised *Library Principles for a Networked World* (<http://www.ala.org/oitp/prinintro.html>); *Policy Concerning Confidentiality of Personally Identifiable Information about Library Users* ([http://www.ala.org/alaorg/oif/pol\\_user.html](http://www.ala.org/alaorg/oif/pol_user.html)); *Policy on Confidentiality of Library Records* ([http://www.ala.org/alaorg/oif/pol\\_conf.html](http://www.ala.org/alaorg/oif/pol_conf.html)); *Suggested Procedures for Implementing Policy on the Confidentiality of Library Records* (<http://www.ala.org/alaorg/oif/sugpolcn.html>).

<sup>8</sup> Adopted June 18, 1948; amended February 2, 1961, and January 23, 1980; inclusion of “age” reaffirmed January 23, 1996, by the ALA Council. See: <http://www.ala.org/work/freedom/lbr.html>.

<sup>9</sup> Existing ALA Policy asserts, in part, that: “The government’s interest in library use reflects a dangerous and fallacious equation of what a person reads with what that person believes or how that person is likely to behave. Such a presumption can and does threaten the freedom of access to information.” *Policy Concerning Confidentiality of Personally Identifiable Information about Library Users* ([http://www.ala.org/alaorg/oif/pol\\_user.html](http://www.ala.org/alaorg/oif/pol_user.html))

<sup>10</sup> See: *Guidelines for the Development and Implementation of Policies, Regulations and Procedures Affecting Access to Library Materials, Services and Facilities* ([http://www.ala.org/alaorg/oif/pol\\_reg.html](http://www.ala.org/alaorg/oif/pol_reg.html)).

Adopted June 19, 2002, by the ALA Council.

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# The USA Patriot Act in the Library

## Background

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (“USA Patriot Act”) became law on October 26, 2001. The legislation originated with Attorney General John Ashcroft, who asked Congress for additional powers that he claimed were needed to fight terrorism in the wake of the events of September 11, 2001. Few amendments were made to Ashcroft’s initial proposal to Congress, and the bill became law without any hearings or markup by a Congressional committee.

The Patriot Act amended over 15 federal statutes, including the laws governing criminal procedure, computer fraud and abuse, foreign intelligence, wiretapping, immigration, and the laws governing the privacy of student records. These amendments expanded the authority of the Federal Bureau of Investigation and law enforcement to gain access to business records, medical records, educational records and library records, including stored electronic data and communications. It also expanded the laws governing wiretaps and “trap and trace” phone devices to Internet and electronic communications. These enhanced surveillance procedures pose the greatest challenge to privacy and confidentiality in the library.

## **Enhanced Surveillance Provisions Affecting Library Confidentiality**

### Section 215: Access to Records Under Foreign Intelligence Security Act (FISA)

- Allows an FBI agent to obtain a search warrant for “any tangible thing,” which can include books, records, papers, floppy disks, data tapes, and computers with hard drives.
- Permits the FBI to compel production of library circulation records, Internet use records, and registration information stored in any medium.
- Does not require the agent to demonstrate “probable cause,” the existence of specific facts to support the belief that a crime has been committed or that the items sought are evidence of a crime. Instead, the agent only needs to claim that he believes that the records he wants may be related to an ongoing investigation related to terrorism or intelligence activities, a very low legal standard.
- Libraries or librarians served with a search warrant issued under FISA rules may not disclose, under of penalty of law, the existence of the warrant or the fact that records were produced as a result of the warrant. A patron cannot be told that his or her records were given to the FBI or that he or she is the subject of an FBI investigation.
- Overrides state library confidentiality laws protecting library records.

Codified in law at 50 U.S.C. §1862.

American Library Association  
Office for Intellectual Freedom

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