

**DALY CITY PUBLIC LIBRARY
POLICY 4: USA PATRIOT ACT**

The “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001” (USA PATRIOT Act) broadly expands the powers of federal law enforcement agencies investigating cases involving foreign intelligence and international terrorism.

The USA PATRIOT Act amends the laws governing law enforcement’s access to business records, including public library records. The USA PATRIOT Act authorizes a variety of legal tools, including search warrants and subpoenas, to obtain information. The Act prohibits any person or institution served with a court order (an order signed by a judge, including search warrants) from disclosing that such a warrant has been served or that records have been produced pursuant to the warrant.

The Daly City Public Library will comply with the law as it relates to the USA PATRIOT Act, while also complying with applicable state and federal confidentiality laws. The Library recognizes its responsibility to protect the privacy of its patrons while responding to legitimate requests from local, state and federal law enforcement agencies. Since library staff utilizes records maintained by the Peninsula Library System (PLS)/Peninsula Library Automated Network (PLAN) and to records maintained by the Daly City Public Library, staff will refer law enforcement to the appropriate authorized personnel on a case-by-case basis.

If staff of the Daly City Public Library receives a search warrant, subpoena, or other request or order for information from a local, state or federal law enforcement agency under the USA Patriot Act, Library staff will refer the law enforcement official to the Library Director, Assistant to the Library Director or designated officer. Library staff will refer all verbal or written requests (without a court order) to the Library Director, Assistant to the Library Director or designated officer. The Library Director, Assistant to the Library Director or designated officer will deal with each request on a case-by-case basis in consultation with or with the presence of the City Attorney to ensure compliance with the law as well as confidentiality obligations. Authorized library staff will refer all requests for records held by PLS/PLAN to authorized PLS/PLAN personnel.

Authorized Personnel

- PLS/PLAN Records—PLS Director and/or PLAN Technology Manager
- Daly City Library Records—Daly City Library Director, Assistant to the Library Director or designated officer (in case of absence of Director or Assistant to the Director)

Procedures if Contacted by Law Enforcement for Library Information

1. Contact the Library Director or Assistant to the Library Director—The Library Director or Assistant to the Library Director, as persons-in-charge, should receive all inquiries from law enforcement.
2. Verify the identity of the law enforcement agent—The Library Director or Assistant to the Library Director will verify the identity of any law enforcement agent who requests library records or other information, including getting a

business card from the agent and calling his/her business office to verify employment.

3. Ask for a copy of the Court Order—The Library Director or Assistant to the Director must request a copy of the Court Order (search warrant, etc.) and its affidavit, if available. A copy of the Court Order is essential, as the search must comply with its terms. The affidavit may provide additional information (if available).

- Search warrant—A Search warrant is a court order issued by a judicial officer (judge or magistrate). It can be federal, state or local. It is immediately executable. Library Staff must notify the Library Director or Assistant to the Library Director immediately. The Library Director or Assistant to the Library Director will verify that a judge has signed the search warrant.

If the warrant does not have a judge's signature, the Library Director or Assistant to the Library Director will request a signature, contact the City Attorney immediately, and refuse to allow the search without a valid court order. If a judge has signed the search warrant, the Library Director or Assistant to the Library Director will contact City Attorney immediately and ask that the attorney be present during the search, but must allow the search to go on immediately if asked.

- Other court orders (including subpoenas)—Not all court orders, including subpoenas, are immediately executable. Refer all subpoenas to the Library Director or Assistant to the Library Director. They will refer requests to PLS/PLAN if appropriate or contact the City Attorney to determine the subpoena's validity.
- FISA—Under the USA Patriot Act, amendments to the Foreign Intelligence Surveillance Act (FISA) permit seizure of “any tangible things” relevant to a foreign intelligence and international terrorism investigation, including electronic records and computer servers containing those records, as well as hard copy records. These requests must be made through the FISA Court. The Library is not permitted to disclose to any other person that law enforcement has sought or obtained tangible things under this section (other than to notify those persons necessary to produce the tangible things, such as the City Attorney).

4. Request time to assemble appropriate personnel—The Library Director or Assistant to the Library Director should request time to contact City Attorney, PLS/PLAN designated personnel, or other appropriate person.
5. Fax warrant to City Attorney or PLS/PLAN personnel so they can review it as soon as possible.
6. Keep track of expenses—In some cases the Library may be compensated for costs (e.g. if the library must rent computers to replace any taken by law enforcement).
7. Verify that a gag order is included with the court order—If there is a gag order or sealed order with the court order, no person shall disclose to any other person (other than those persons necessary to produce the tangible things under the court

order) that law enforcement has sought or obtained. Necessary persons include the City Attorney and essential Library staff, but exclude all others (non-essential staff, spouses, etc.). If contacted by the press, this could require “no comment” statements.

8. Notify the City Manager—As soon as possible, the Library Director or Assistant to the Library Director will notify the City Manager before or during any Library search, staying within the gag order boundaries.

Library Patron Registration and Circulation Records

As a member of the Peninsula Library System (PLS), the Daly City Public Library shares use of the Peninsula Libraries Automated Network (PLAN) for patron registration and circulation records. The Peninsula Library System maintains patron records on the PLS/PLAN Central Servers.

Daly City Library staff will refer search warrants for patron records maintained on PLS/PLAN Central Servers immediately to the Daly City Library Director or Assistant to the Library Director who in turn will contact the PLS Director or designated officer. The PLS Director will consult with the PLS Attorney and the PLAN Technology Manager when responding to warrants.

The PLS Director and staff will follow the *Peninsula Library System Policy Statement and Procedures for Law Enforcement Visits Related to the USA Patriot Act*, adopted and approved by the PLS Administrative Council on April 3, 2003.

Internet Use Records

Law enforcement can request Intercepts (court ordered wiretaps) to search for information on Internet use. These orders are likely to be directed at the City’s or PLAN’s Internet Service Provider (ISP). It is possible that surveillance will monitor Library users by using taps at the ISP without the Library’s awareness.

Local Library Records

The Daly City Library Director will consult with the City Attorney if the library receives requests for data not owned by PLAN, such as local paper records (such as Internet sign-up sheets, if any).

The Daly City Library will expunge in a timely manner all local records with identifying information such as a library patron’s name, address, books borrowed, reference use, and Internet use that are no longer necessary for library administration.

Voluntary Disclosures by the Library to Law Enforcement

If Library staff has a reasonable belief that there is an emergency situation involving immediate danger of death or serious physical injury, under the USA PATRIOT Act, staff may invite investigations by federal law enforcement. Additionally, if Library staff has a reasonable belief that there has been a computer trespass, they may invite federal investigations. All staff will contact the Library Director or Assistant to the Library Director to discuss specifics and the Library Director or Assistant to the Library Director will contact law enforcement.

Endorsed by the Library Board of Trustees: 5/20/03; Reaffirmed 10/19/10