

	Policy: Release of Private Patron Information	Policy #
	External <input checked="" type="checkbox"/> Internal <input type="checkbox"/>	Date Approved: 03/23/2017
	Submitted by:	Date Reviewed:
	Approved by:	Date Revised:

Purpose/Objectives:

The purpose of this policy is to protect personally identifiable patron information in a manner that ensures free speech, in accordance with the University’s mission; to support the principle of anonymous access to information for patrons using the Health Sciences Library and Informatics Center’s (HSLIC’s) resources; and to comply with the New Mexico Library Privacy Act, the New Mexico Constitution and the Constitution of the United States, while complying with all applicable laws, including the USA PATRIOT Act.

Scope of Policy:

Patrons — people who use the library’s resources

Policy/Procedure:

HSLIC releases personally identifiable patron information in accordance with this policy.

Conditions for Release of Personally Identifiable Patron Information

Under the New Mexico Library Privacy Act, personally identifiable patron information shall not be disclosed or released to any person who is not a member of HSLIC staff in the performance of his or her duties, except on valid written consent of the patron identified in the requested information. The prohibition on release of patron records does not apply to overdue notices or to the release or disclosure by school libraries to the legal guardian of the patron records of unemancipated minors or legally incapacitated persons.

The only other exception is when a legally valid subpoena, search warrant or order from a government organization compels release of personally identifiable patron information. Examples of such an organization could include, but are not limited to, a legislative body, the courts, the police or federal law enforcement agencies such as the Federal Bureau of Investigation. The most common orders to be presented are subpoenas, search warrants and authorizations to monitor computer activity.

In addition to the above government organizations, the Chancellor for Health Sciences, or the Chancellor’s designee, may issue an authorization to monitor computer activity that could include information from which a patron’s status could be ascertained in accordance with the UNM Acceptable Computer Use Policy. HSLIC complies with orders as described above and enforces the UNM Acceptable Computer Use Policy.

Procedures for Release of Personally Identifiable Patron Information

1. Release of Personally Identifiable Patron Information with Patron Consent

With the exception of items 2, 3 and 4 on the next two pages, personally identifiable patron information will be released only with the express written consent of the patron identified in the information. Requests for personally identifiable patron information

should be referred to the HSLIC Executive Director, or the Executive Director's designee.

2. Response to a Subpoena

When an attorney or a representative of a government agency (the Representative) serves a subpoena on HSLIC for the release of personally identifiable patron information, HSLIC staff will adhere to the following procedures:

- a. Ask the Representative to present proper identification.
- b. Refer to the Representative to the HSLIC Executive Director or, the Executive Director's designee.
- c. The HSLIC Executive Director or designee handling the subpoena will refer the Representative to the University Counsel's office, who will arrange, if appropriate, to accept service of the subpoena.
- d. Consistent with the requirements of Regents Policy Manual (RPM) Policy 2.16 pertaining to the commencement of litigation, the University Counsel's office may, if authorized to do so as provided in RPM Policy 2.16, petition the Court to issue a protective order for the purpose of maintaining the privacy of the disclosed information and limiting its use to the particular case in question.
- e. After any legal questions are resolved in a satisfactory manner, HSLIC will respond to the subpoena through the Office of University Counsel.

3. Response to a Search Warrant/ Monitoring Order

If, as and when a Representative serves HSLIC with a search warrant for the release of personally identifiable patron information, including orders to allow computer activity to be monitored, HSLIC staff will adhere to the following procedure:

- a. Ask the Representative to present proper identification and to present a physical copy of a search warrant or monitoring order.
- b. Inform the HSLIC Executive Director or, the Executive Director's designee and the Office of University Counsel, that a Representative is executing a search warrant or monitoring order on the premises.
- c. The Executive Director or designee will immediately call the University Counsel's office and request that an attorney be dispatched to HSLIC. The University Counsel's office will be provided with a copy of the search warrant/monitoring order as soon as possible.
- d. If the Representative fails to produce proper identification or a physical copy of a search warrant or monitoring order, the HSLIC official will explain HSLIC's privacy policy and inform the Representative that user records are not available except when the patron's consent is given (Procedures, Section 1, above), or a proper search warrant, computer monitoring order, or subpoena is presented.
- e. The HSLIC official will ask the Representative to delay execution of the search warrant or monitoring order until University Counsel can be present. The government is not required by law to respond to such a request.
- f. If University Counsel is present during the search or monitoring, they will inspect the warrant or monitoring order to determine its validity. University Counsel will monitor implementation of the order to monitor the extent to which it conforms to the specifications in the original search warrant or monitoring order.

- g. HSLIC will assemble the information to be produced and consult with the University Counsel's office to prevent the release of any information not specifically requested in the subpoena. The HSLIC official will be responsible for documenting items taken and any monetary costs incurred by the search – for example, damage to or loss of HSLIC property or information.
- h. Once the search is complete, HSLIC will work with University Counsel to ensure that it meets any remaining obligations under the warrant/monitoring order.

4. Response to Search Warrants/ Monitoring Orders Under the USA PATRIOT Act

When receiving an order processed under terms of the USA PATRIOT Act, HSLIC staff will follow the procedure in section 3, steps (a) through (h), above for responses to such orders — with the following exceptions, due to the Act's prohibition against disclosure of searches conducted under its auspices:

- a. HSLIC employees immediately send to the University Counsel's Office a copy of any such search warrant/monitoring order to ascertain whether such search warrant/monitoring order has been issued under Section 215 of the USA PATRIOT Act.
- b. If the search warrant/monitoring order is determined to have been issued under Section 215 of the USA PATRIOT Act, HSLIC employees shall not disclose to or discuss with any person (other than to the employee's supervisor or upper management, University Counsel, or those persons necessary to produce the tangible things under this section) the fact that HSLIC has been subject to a search warrant or computer monitoring order, or has released private information to the government Representative.
- c. This restriction applies to patrons whose personally identifiable patron information has been subject to search or monitoring.

5. Response to Monitoring Orders Originating within the Health Science Center

HSLIC will permit monitoring of computer activity in accordance with University Administrative Policy and Procedure Manual (UAPPM) Policy 2500, entitled Acceptable Computer Use. The HSLIC complies with these monitoring orders, regardless of whether or not an affected patron has given consent or has been informed of any release of personally identifiable patron information.

Responsibilities:

RESPONSIBILITIES	
Position/Title/Group	Requirements/Expectations/Duties
HSLIC staff	Respond to subpoenas, search warrants and monitoring orders issued by attorneys or representatives of government agencies for release of personally identifiable patron information.
	Comply with UAPPM Policy 2500, "Acceptable Computer Use."

See procedures for "Release of Personally Identifiable Patron Information" in section 3.0 above for a complete list of responsibilities related to this policy.

Approval Authority:

Approval and Information

Item	Contact Information	Date	Approval
Steve Stockdale	Deputy Director of Operations, UNM Health Sciences Library and Informatics Center, (505) 272-4688		
Contributor(s) Consultant(s) Committee(s)	OMT		
Revised by University Counsel	Scot Sauder, Esq. Deputy University Counsel for Health Sciences	February 2017	Y
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HISTORY LOG				
Date and Date Type	Revision	Title of Document	Description of Change(s)	Approved by Name/Title
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Origination Effective date: 6/25/2007	1	“ “ “	“ “ “	OMT 6/25/2007

Definitions:

According to the American Library Association (ALA), privacy is “the right to go about one’s business without having one’s activities observed or examined by others.” The ALA defines confidentiality as a condition wherein “a person who needs to be in possession of information about others keeps that information private on their behalf.”

Personally identifiable patron information refers to any information HSLIC stores that identifies, or when combined with other available information identifies, a person as a HSLIC patron, or that indicates use or request of materials from HSLIC, or the nature of the use of those materials.

A subpoena is a legal order requiring a person to be present at a legal proceeding to offer testimony or produce specific documentation. A subpoena allows a person a specific period of time to prepare for the scheduled proceeding and gather required materials.

A search warrant empowers law-enforcement officers to search a particular location immediately for specific items related to a specific investigation. The officers are not required to grant a delay before proceeding.

An authorization to monitor computer activity as part of a subpoena, search warrant or HSC authorization requires HSLIC to cooperate. The purpose and conditions of such monitoring will vary on a case-by-case basis.

Congress passed Public Law: 107-56 (the USA PATRIOT Act) in October 2001; it was amended in 2001, 2006 and 2015. The USA PATRIOT Act grants broad powers to federal law enforcement agencies to investigate suspected terrorist activities. According to the USA PATRIOT Act, the following may not be disclosed, under penalty of law: the existence of a warrant, or subpoena or the fact that records were produced as a result of a warrant or subpoena. A patron cannot be told that his or her records were given to law-enforcement representatives or that he or she is the subject of a law-enforcement investigation. HSLIC employees may not discuss the search with anyone other than the employee's supervisor or upper management, attorney members of the Office of University Counsel or those persons necessary to produce tangible things under the USA PATRIOT Act.

Key Words:

HSLIC, library, patron, release, PATRIOT Act, privacy, confidentiality, subpoena, search warrant, monitoring order

References:

External Reference(s):

- Public Law No: 107-56 (USA-PATRIOT Act of 2001).
- Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99
- New Mexico Library Privacy Act. New Mexico Statutes Annotated, NMSA 1978, Section 18-9-1 et seq.
- American Library Association. Policy on Confidentiality of Library Records. <http://www.ala.org/advocacy/intfreedom/statementspols/otherpolicies/policyconfidentiality>
- American Library Association. Policy Concerning Confidentiality of Personally Identifiable Information About Library Users: <http://www.ala.org/advocacy/intfreedom/statementspols/otherpolicies/policyconcerning>
- U.S. Copyright Act of 1976
- Constitution of the United States

Internal Reference(s):

- HSLIC Public Workstation Use Policy
- HSLIC Circulation Policy
- HSLIC Noise, Cell Phone and Disruptive Behavior
- UNM Acceptable Computer Use Policy. University Administrative Policies and Procedures Manual, Policy 2500 <https://policy.unm.edu/university-policies/2000/2500.html>
- UNM Computer Security Controls and Access to Sensitive and Protected Information. University Administrative Policies and Procedures Manual, Policy 2520 <http://www.unm.edu/~ubppm/ubppmanual/2510.htm>
- UNM Policy on Freedom of Expression and Dissent. University Administrative Policies and Procedures Manual, Policy 2220 <https://policy.unm.edu/university-policies/2000/2220.html>