



Patrolling the Stacks

A presentation courtesy of ESLN

Wednesday, March 19, 2025

2:00 p.m.

Stephanie “Cole” Adams, Esq.



**Empire State
Library Network**

Stephanie “Cole” Adams is an attorney who advises libraries across the State of New York on operational and employment matters.

She got her start working with libraries as a page during high school.

Her law office in Buffalo offers legal advice, services, and representation to help libraries and library workers provide their communities with information access.



This presentation is licensed to all nine regional library councils and their members.

This presentation is NOT legal advice.

Goals for Today

1. Review every question that was sent in advance.
2. Review critical information for libraries, library leaders, and workers at this special time.



BLACK FRIZZLED FOWL.



WHITE LEGHORN HEN.

Black Frizzled Fowl and White Leghorn Hen, from the Prize and Game Chickens series (N20) for Allen & Ginter Cigarettes; Publisher Allen & Ginter American; Lithographer The Gast Lithograph & Engraving Company American; 1891; Images courtesy of Metropolitan Museum of Art Open Access

Introduction

Libraries are special places, and library users—even those accused or convicted of crimes—have rights.

One of the most important of these rights is privacy, which includes confidentiality of library user records and use of library services.

This means that any person should be able to use a library without fear that the information generated by such use will be used against them without the due process of law.

How this right is assured varies from library to library. Each library has discretion to adopt policies to meet this obligation, and every library has different considerations when doing so, such as:

- **Public libraries** must balance the assurance of confidentiality with their role as quasi-governmental entities, which include obligations under the Freedom of Information Law.
- **Libraries at schools** must follow relevant education laws.
- **Association libraries**, even though private, must abide by duly issued warrants and subpoenas.
- **Special libraries at hospitals, prisons, court houses, and governmental agencies** have to balance their obligations with additional regulations.
- **Historical societies, genealogical societies, and other institutions maintaining research libraries and archives** will face similar considerations.

Because 2025 is bringing a particular focus to **immigration-related and speech-chilling actions by law enforcement in libraries and other public spaces**, this Guide has been created to assist libraries and workers with managing their obligations, policies, and response plans.

For trustees and other library leadership, this Guide will lead you through the laws that you, as a fiduciary, must ensure your institution follows.

For workers, this Guide will lead you through the laws that your employer must follow and provide guidance on how to prepare in the event your conscience, safety, or other factors result in you having to depart from the policy and protections of your employer.

This Guide considers that employees who “depart from the policy” of their employer may face disciplinary action and includes preparing for the same.

This Guide is divided into **five sections**.

In **Section I**, this Guide reviews the most common types of law enforcement (“LE”) and other third parties who typically demand library access and information in the context of an investigation. This is to ensure users of the Guide are familiar with the different types of entities, how such entities may request/demand information, and to provide a shared language for communicating about them.

In **Section II**, this Guide reviews the various types of libraries in New York State and the laws that impact their obligations with respect to LE investigations.

In **Section III**, this Guide uses the information in Sections I and II to guide a governing board through identifying an “LE Response Philosophy.” This is an important position for a board to articulate so it can develop policy consistent with its overall goals with respect to working with LE.

In **Section IV**, this Guide sets out **policy and risk mitigation actions** library leadership can take to implement or further develop their **LE Response Philosophy**.

In **Section V**, this Guide reviews what library workers in New York can do to support their library and themselves, including in the event that their conscience, safety, or another factor requires them to depart from the policies of their employer.

Section I

**Types of law enforcement (LE) and other entities that might
visit or contact a library**

Type of LE (or other personnel)	Ways they can investigate; Library considerations
LOCAL	
<p data-bbox="53 219 1352 277">1.1. Local police department</p> <p data-bbox="53 334 1352 448">Jurisdiction: Criminal activity and violations within the locality</p>	<p data-bbox="1352 219 2548 277">Presence and observation in all public areas.</p> <p data-bbox="1352 334 2548 391">Obtain evidence with appropriate permission.</p> <p data-bbox="1352 448 2548 505">Arrest, search, and/or seizure with a court order or wa</p> <p data-bbox="1352 562 2548 619">Arrest, search, and/or seizure with probable cause.</p>
<p data-bbox="53 685 1352 742">1.2. Local building inspectors</p> <p data-bbox="53 799 1352 913">Jurisdiction: Building code violations within the locality</p>	<p data-bbox="1352 685 2548 742">Presence and observation in all public areas.</p> <p data-bbox="1352 799 2548 856">Inspection upon invitation by building owner or tenar</p> <p data-bbox="1352 913 2548 971">Inspection with a court order.</p>
<p data-bbox="53 1033 1352 1090">1.3 Local permits officers</p> <p data-bbox="53 1148 1352 1262">Jurisdiction: Violations of permitted activity within the locality.</p>	<p data-bbox="1352 1033 2548 1090">Presence and observation in all public areas.</p>

COUNTY	
<p data-bbox="38 99 560 157">1.4 County Sheriff</p> <p data-bbox="38 228 930 406">Jurisdiction: Criminal activity and violations within the locality</p>	<p data-bbox="1044 99 2140 157">Presence and observation in all public areas.</p> <p data-bbox="1044 228 2165 285">Obtain evidence with appropriate permission.</p> <p data-bbox="1044 357 2293 471">Arrest, search, and/or seizure with a court order or warrant.</p> <p data-bbox="1044 542 2293 599">Arrest, search, and/or seizure with probable cause.</p>
<p data-bbox="38 642 891 699">1.5 County Health Department</p> <p data-bbox="38 771 968 949">Jurisdiction: Known or suspected violations of state and local health codes.</p>	<p data-bbox="1044 642 2140 699">Presence and observation in all public areas.</p> <p data-bbox="1044 771 2165 828">Obtain evidence with appropriate permission.</p> <p data-bbox="1044 899 2458 956">Obtain evidence with a subpoena, court order or warrant.</p>
<p data-bbox="38 1021 777 1078">1.6 County Social Services</p> <p data-bbox="38 1149 815 1328">Jurisdiction: Within context of providing services and supervision.</p>	<p data-bbox="1044 1021 2140 1078">Presence and observation in all public areas.</p> <p data-bbox="1044 1149 2165 1206">Obtain evidence with appropriate permission.</p> <p data-bbox="1044 1278 1872 1335">Obtain evidence with a subpoena.</p>

STATE	
<p>1.7 New York State Police (“State Troopers”)</p> <p>Jurisdiction: Criminal violations in the State of New York.</p>	<p>Presence and observation in all public areas.</p> <p>Obtain evidence with appropriate permission.</p> <p>Arrest, search, and/or seizure with a court order or warrant.</p> <p>Arrest, search, and/or seizure with probable cause.</p>
<p>1.8 Peace Officers</p> <p>There are over 70 categories of “peace officer,” ranging from officers from the New York State Department of Taxation & Finance to “animal control officers in the City of Elmira.”</p> <p>For this reason, not all peace officers are listed in this chart, but a few of the more typical ones are.</p>	<p>Because of the broad array of LE that has this status, and because of the ease with which it can be faked, any library approached by a person claiming to be a “Peace Officer” should request the credentials and immediately contact their attorney to verify them with the issuing authority.</p> <p>Peace Officers have the authority to arrest without a warrant, but this authority is limited to felonies the Peace Officer either personally witnessed OR are within their “special duties” (for instance, a Peace Officer from the state tax department can arrest on a felony related to taxes, even if they did not witness the crime).</p> <p>For this reason, Peace Officers, with very few exceptions, cannot arrest people for immigration law violations.</p>

1.9 Department of Agriculture and Markets “Confidential Investigator” (Peace Officer)

Jurisdiction:
Farming, food control in New York.

Presence and observation in all public areas.

Obtaining evidence with appropriate permission.

Arrest, search, and/or seizure with a court order or warrant.

Arrest, search, and/or seizure with probable cause, related to “special duties.”

FEDERAL

- 1.10 U.S. Department of Justice, including:**
- Federal Bureau of Investigation (FBI)
 - Bureau of Alcohol, Tobacco, Firearms, & Explosives (ATF)
 - Drug Enforcement Agency (DEA)
 - U.S. Marshals Service
 - Etc.

Presence and observation in all public areas.

Obtaining evidence with appropriate permission.

Arrest, search, and/or seizure with a court order or warrant.

Arrest, search, and/or seizure with probable cause.

1.11 U.S. Immigration & Customs Enforcement (ICE)

Jurisdiction: Homeland security and immigration law.

Presence and observation in all public areas.

Obtaining evidence with appropriate permission.

Arrest, search, and/or seizure with a court order or warrant.

Arrest, search, and/or seizure with probable cause.

Authority to examine a copy of each employee's Form I-9 ("I-9 review") within 3 days of presenting an appropriate notice, which should be reviewed by an attorney for sufficiency upon receipt.

1.12 U.S. Customs & Border Protection (CBP) or U.S. Border Patrol

Jurisdiction: Homeland security, border control, and immigration law

Immigration and customs violations, generally limited to within 100 miles of an international border or 12 miles of a navigable waterway.

<p>1.13 U.S. Citizenship and Immigration Services (USCIS) officer</p> <p>Jurisdiction: Naturalization and immigration</p>	<p>Immigration services and benefits.</p>
<p>1.14 U.S. Secret Service</p> <p>Jurisdiction: security of federal administration, financial and cybercrime</p>	<p>Presence and observation in all public areas.</p> <p>Obtaining evidence with appropriate permission.</p> <p>Arrest, search, and/or seizure with a court order or warrant.</p> <p>Arrest, search, and/or seizure with probable cause.</p>
<p>1.15 U.S. Department of Agriculture (USDA) inspector</p> <p>Jurisdiction: Farm bill and regulations</p>	<p>Agricultural and livestock investigations, food safety enforcement.</p>
<p>1.16 U.S. Coast Guard officer</p> <p>Jurisdiction: All federal laws in the context of navigable waters</p>	<p>Enforcement actions by Coast Guard officers will hopefully not be a concern for your institution, but it remains a possibility.</p>

OTHERS

**1.17 Prosecutor
(e.g. District Attorneys or U.S.
attorneys)**

**Jurisdiction:
Violations of permitted activity
within the locality.**

Presence and observation in all public areas.

Obtaining evidence with appropriate permission.

Via a PD, sheriff, FBI, or other LE's arrest and seizure of evidence per a court order or warrant.

Subpoena.

1.18 Attorney (not a prosecutor)

**Jurisdiction:
Active criminal and civil cases.**

Presence and observation in all public areas.

Obtaining evidence with appropriate permission.

Duly issued court order or subpoena.

<p>1.19 Campus police officer</p> <p>Jurisdiction: criminal activity and violations within a college or university.</p>	<p>Campus police making inquiries of an academic library within their institution must abide by FERPA and the library's obligations under CPLR 4509.</p>
<p>1.20 Campus safety employee</p> <p>Not law enforcement.</p>	<p>Campus safety making inquiries of an academic library within their institution must abide by both FERPA and the library's obligations under CPLR 4509.</p>
<p>1.21 Licensed security guard</p> <p>Not law enforcement.</p>	<p>A licensed security company has no authority to demand or seize evidence.</p>
<p>1.22 Licensed private investigator</p> <p>Not law enforcement.</p>	<p>A licensed security company has no authority to demand or seize evidence.</p>
<p>1.23 Utility company employee</p> <p>Not law enforcement.</p>	<p>Utility employees may inspect meters per an easement.</p>

Section II
Various types of libraries in New York State
and
laws that impact their positions vis-à-vis LE investigations

Type of Library	Obligations or Awareness Point	Considerations
2.1. ALL	Ethical obligation to protect library user confidentiality.	When responding to LE or third-party requests for information, the institution should never provide more access or information regarding use of library services than is required by law.
2.2. Public libraries and other “quasi-governmental” libraries and institutions (community colleges, etc.)	Comply with the New York Freedom of Information Law (FOIL)	Some information sought may be subject to FOIL. For this reason, FOIL policies should be up to date, with a clear designation of the Records Access Officer and the person/entity considering FOIL appeals.
2.3. Indian libraries*	The obligation to cooperate with LE will vary based on the LE’s jurisdiction and purpose of investigation.	Confer with legal counsel for sovereignty issues raised by immigration investigations and enforcement.

* This is the name used in the Education Law; these currently include the Akwesasne Cultural Center & Library and the Seneca Nation Library.

2.4. Public school library (K-12)	Schools are keenly aware of the impact of this issue on students and their families.	Coordinate the library's position with that of the school district while emphasizing additional privacy obligations pertaining to student library records.
2.5. Library within federal agency	Comply with the Freedom of Information Act (FOIA)	Some information sought may be subject to FOIA. For this reason, FOIA policies should be up to date, with a clear designation of the FOIA Contact and the FOIA Liaison.
2.6 Library within state agency (such as NYS Department of Environmental Conservation)	May be asked to collaborate with LE efforts, depending on basis and jurisdiction.	Will be expected to be consistent with position of agency they operate within.

<p>2.7. Library within 100 miles of an international border.</p>	<p>Libraries within 100 miles of an international border are unambiguously within the jurisdiction of the U.S. Customs and Border Protection.</p>	<p>May be more likely to be the site of a CBP investigation.</p>
<p>2.8. Library in a designated “sanctuary” jurisdiction.</p>	<p>May be subject to greater scrutiny by LE and elected leadership due to location.</p>	<p>This makes the need for clear policy even greater.</p>
<p>2.9. Library with high number of community members impacted by 2025’s evolving immigration enforcement efforts.</p>	<p>This increases both the likelihood and the pressures of immigration-related LE activity.</p>	<p>This makes the need for clear policy even greater.</p>

<p>2.10. Academic library at institution facing threat of loss of grant funding conditioned on cooperation with heightened immigration enforcement.</p>	<p>Governing boards should be meeting to develop a strategy on addressing this concern, and should be aware that the institution's library has an ethical and legal obligation to protect the confidentiality of library user information.</p>	<p>While an academic library has discretion within legal limits to set policy on how it works with LE, such action should be based on values, not threats or coercion.</p>
<p>2.11. Municipal library in municipality with stated official position to use local resources to aid federal immigration enforcement efforts.</p>	<p>Some libraries may develop consistent policy within the allowed parameters; others may find themselves partly or fully at odds with such a stance.</p>	<p>Regardless of how consistent a library is with the approach of its municipality, it should have clear policy and procedure; libraries at odds with local policies must take extra measures to assert the library's autonomy and independence.</p>

Section III
Library and LE Response Philosophy
Worksheet

Important position factors

3.1. Hardest question first:

If LE arrives at your library to seek information on a matter in which your library is not a complainant, does your library:

1) Assist only to the bare minimum required, after appropriate authentication of credentials and compelling documents by the library's attorney?

OR

2) Help to the maximum allowed with minimal authentication?

Impact on philosophy

If your library only assists to the bare minimum required, you are a "Minimum LE Cooperation" library. Sample position language for this is:

"Library user records and use of library services are confidential. For this reason, the [NAME] library provides investigating Law Enforcement with only information required by law."

If your library helps to the maximum allowed, your library is a "Maximum LE Cooperation library." Sample language for this is:

"Library user records and use of library services are confidential. For this reason, while the [NAME] library will assist to the extent allowed by law, a duly authorized warrant, court order, or subpoena will be required prior to release of library user information."

3.2. Does your library know where its property (owned or leased) begins and ends?

Hint: This should be on a survey, lease, or tax map.

If YES, your library is a “Property Known” library.

If NO, your library is a “Unsure About Property” library.

If SORTA, your library runs the risk of being considered an “Unsure About Property” library.

3.3. Does your library have clearly designated “non-public” spaces?

If YES, your library is a “Restricted Area” library.

If NO, your library is a “No Restricted Areas” library.

If SORTA your library runs the risk of being considered a “No Restricted Areas” library.

3.4. Does your library deny services to residents within the area of service based on citizenship and/or immigration status?

If YES, your library is risking a case of discrimination under the NYS Human Rights Law and both the NY and US Constitutions.

If NO, good, because YOU CAN'T DO THAT.

3.5. Does your library have a policy or other document assuring all library users that it follows a code of ethics that guarantees private, confidential, and unbiased library services?

If YES, have a copy of the Code of Ethics on hands when any LE arrive.

If NO, library leadership may want to discuss if now is the time to adopt one.

3.6. Does your library have a policy or other document assuring all library users that it follows CPLR 4509, restricting access to library user records?

If YES, your library is a “4509 Complaint” library.

If NO, or WE CAN’T FIND A RECORD OF THAT, your library may want to consider adopting such a policy, to ensure the law is known and followed.

3.7. Does your library have a written agreement or established practice with LE enforcement for addressing library concerns (criminal conduct at the library).

If you have a written agreement, you are an “LE Formal Relationship” library. Review the agreement to ensure it reflects the library’s current needs.

If your library uses LE but it’s informal, consider if the current approach needs to be revisited.

3.8. Does your library want to have a policy of alerting workers and others when LE is present on the property?

NOTE: Unless the library is presented with known credentials by the LE, and those credentials are vetted by a person trained to assess them, it is wise to not do this.

If YES, make sure workers are trained on what to say and how to say it.

If NO, that is fine, your library is not required to do this.

If your library never considered this before: Yes, you can do that, but there should be clear language, and to avoid panic, persons authorized to make such a pronouncement should be trained to request and recognize credentials.

If your library does this, it is an “LE Presence Alerting” library.

3.9. Does your library have alternate egress in the event a particular agency arrives at the main entrance?

If YES, you are a “Casablanca” library.

If NO, it’s good for workers to know that.

If your library can’t physically do that, it is wise to consider this factor.

3.10. Does your library have a surveillance system that would record LE activity?

If YES, bear in mind that the recording might be evidence and take steps to preserve it. It might also be subject to request under FOIL, unless such records are specifically regarded as “user records” (which they can be).

If NO, one less thing to worry about!

Should you have one? That is a question only your library can answer.

3.11. Does your library want to require workers to document LE activity?

If YES, bear in mind that, if the documentation is made as a work requirement, it will likely be subject to disclosure under FOIL (even if made using a personal device). In addition, the policy should address how such recordings are made without risking a charge of interfering with LE actions.

If NO, one less thing to worry about!

Should you have one? That is a question only your library can answer. When developing such a policy, careful consideration of the application of FOIL and whether or not employee-owned devices should be used are top considerations.

3.12. Does the library want to prohibit workers from personally recording LE activity in areas where recording is not prohibited?

While this type of prohibition should not be made, if your library has elected to not record LE activity, it should be clear that workers doing so are doing it on their own time and only in areas where recording is allowed.*

3.13. Does your library want to encourage use of library resources by alerting the public (and LE) to its particular stance on this?

If YES, your library should develop a short statement of its philosophy, in a way that will be meaningful to library users, and release it.

If NO, your library should develop a short statement of its philosophy, in a way that will be meaningful to library workers, but not promulgate it.

* Yes, this is the same type of rule that governs ~~First Amendment Auditors~~ People Recording in the Library.

3.14. Does your library know the answers to these questions but want to keep them “unofficial” due to the fear that taking a position would result in retaliation and scapegoating?

If NO, good. Fear is not the basis for policy (or lack thereof).

If YES, while that is understandable, having “unofficial” positions can be risky upon an investigation, as actions will not be aligned with policy or directives, risking both due process and insurance coverage in a worst-case scenario.

This is not a trick question! While your institution might not want to take a loud and overt stance, it is wise to take a stance, even if you do not publicize it.

3.15. Are you a library leader who sees a board meeting discussing these things turning ugly?

If NO, great.

If YES, consider conducting your meeting with local legal counsel, so the attorney can help the board focus on the legal factors.

Sample LE Response Philosophies (all of which are legal in NYS)

EXAMPLE 1 “The Victor”

The mission of the [NAME] Library is [INSERT]. As required by law, the Library serves all residents of [PLACE] without regard to citizenship or immigration status. As required by law, the Library keeps library user records confidential and releases such information to law enforcement agencies only to the degree required after appropriate authentication of credentials, warrants, court orders, and/or subpoenas. To maximize the confidentiality of services, employees are trained to alert all present in the library when law enforcement has been verified as present, and we record instances of on-site arrest or seizure of evidence whenever possible. To assist users who do not want to be at the Library when law enforcement is present, the Library has several means of egress. To enhance the Library’s ability to maintain confidentiality, “private” areas where only library officials and their invitees may enter are designated with signage.

EXAMPLE 2. “The Rick”

The mission of the [NAME] Library is [INSERT]. As required by law, the Library serves all residents of [PLACE] without regard to citizenship or immigration status. As required by law, the Library keeps library user records confidential and releases such information to law enforcement agencies only to the degree required after appropriate authentication of credentials, warrants, court orders, and/or subpoenas. For the protection of the Library, we record all seizures of evidence and arrests made on site; such recordings pertaining to library users are confidential library records.

EXAMPLE 3 “The Louie”*

The mission of the [NAME] Library is [INSERT]. As required by law, the Library serves all residents of [PLACE] without regard to citizenship or immigration status. As required by law, the Library keeps library user records confidential but will release such information to law enforcement agencies and other third parties per duly issued warrant, court order, and/or subpoena. The Library may also elect to release any library record it determines must be released for the proper operation of the Library.

As shown by the diversity in these policies, libraries have a great deal of latitude in how they choose to interact with law enforcement. **What is important is that library policies be applied consistently.**

* Yes, I am naming these approaches after different heroes in “Casablanca.” Each of these approaches—or a different combination—is legal. It is not until a library starts handing over records and calling ICE on library users that it becomes “The Collaborator” (I am not providing model language for that one).



Section IV
Policy and risk mitigation for library leadership

Policy or risk mitigation action leadership can take	What it Can Do	How to Implement
4.1. Know your library's position.	Even if you don't widely publicize it, a library must know where it stands on these issues.	Use Section III to identify (and regularly re-evaluate) where your library stands.
4.2. Evaluate your library's insurance.	<p>If there is any accusation by LE or a government agency of wrongdoing by employees or leadership, the library's board should know if there is coverage.</p> <p>If workers <i>are</i> covered for alleged legal violations, consider letting them know the extent of the coverage (and that it only applies if they are following library policy). This can ease tensions.</p>	Review the current insurance policy to see what "criminal" accusations are covered, and who is covered for them.

4.3. Ensure your library’s definition of “library user records” is up to date and reflects all records your institution keeps and regards as confidential user information.

This is to ensure there is a clear basis to deny access to protected library user records.

Adopt or amend a policy to include a complete list of record types.

4.4. Evaluate your library’s designation of private space.

Make sure the policy and signage are clear and reflect actual restricted use terms.

NOTE: “Restricted use” can include invited people (for example, the computer repair person going into an otherwise restricted server room).

The director should assess current needs and practices against the library’s needs, and the board should adopt or revise the policy accordingly.

4.5. Reach out to legal or immigration advocacy organizations for “Know Your Rights” information to provide to library users.

This will enhance the services offered by the library.

If not already in place, consider a formal or informal partnership with such an organization in your area.

4.6. Provide short scripts to workers to reflect policy positions.

When LE arrives is not the time for an employee to be paging through a 10-page policy!

Practice using these scripts under stressful situations.

Examples:

“Please provide your credentials, and I’ll immediately connect you with the library director.”

“We have verified that [agency] is in the building.”

“The exits are at LOCATION.”

“I have been trained to not share information about library users.”

“The New York State Constitution allows me to record this activity.”

<p>4.7. Ensure your library's scripts and policies are up-to-date, concise, and clear.</p>	<p>This will help your workers follow policy in the moment.</p>	<p>Have legal counsel review the policies and scripts to ensure your unique approach is consistent with the requirements at your library.</p>
<p>4.8. Polish up the relationship with local LE to the maximum extent possible.</p>	<p>Ensure local LE knows the ethical and legal restraints libraries operate under; to the degree practical, ensure the local LE is aware of your library's philosophy.</p>	<p>This should be carefully planned and should almost always start with a face-to-face discussion between leaders.</p>
<p>4.9. Let employees know that if they face a negative consequence for following library policy (arrest, harassment, etc.), the library will assist with addressing it.</p>	<p>This encourages workers to learn and follow policy. It can also reassure them that, if they take action under policy, the library will have their back.</p>	<p>Put that assurance in the policy, a FAQ, or another document.</p>

4.10. Engage a local criminal defense attorney to advise on this topic.

If a local criminal defense attorney wants to provide this service *pro bono*, great!

This does not need to be a “library attorney;” just a lawyer on retainer who knows local LE and can assist if a situation emerges. This lawyer should be open to connecting with library advocacy organizations so their local knowledge can be combined with library-focused knowledge.

Put out an RFP as follows:

“The [NAME] Library seeks a criminal defense attorney in [NAME] county to advise the library board and director on matters related to civil liberties on an on-demand, hourly basis. Experience should include felony and misdemeanor cases in federal and state courts. Experience with immigration a plus.”

4.11. Prepare workers for this fact: No matter how strong the library’s position and preparation are, it might not prevent an illegal arrest or seizure of evidence.

LE can overstep boundaries (accidentally or otherwise). While being ready can reduce the likelihood of an unconstitutional arrest or seizure, that is not assured. Make sure workers know that what they do in the moment might become part of how the wrongful action is fought.

This should be part of a policy:

“In the event library user records are taken or an agency remains in the library in a manner that violates the law or this policy, the library shall take action to address the violation.”

Section V
Library workers as Individuals

What an employee can do	How it can be done
<p>5.1. Respectfully ask the library director what the library's positions are as listed in Section III.</p>	<p>Be patient; the board might not give the director timely input.</p>
<p>5.2. If your employer doesn't provide answers, develop a personal response plan.</p>	<p>Review Section III and identify what YOU think should be done.* Discuss this with your lawyer (prior to an incident).</p>
<p>5.3. Use the tools of your trade to identify the best resources to refer people to with respect to immigration enforcement.</p>	<p>Resources from local bar associations and legal clinics, immigration and resettlement agencies, and civil liberties groups are best, the more local the better.</p>

* Library leaders who are reading this: if you just cringed at the thought of your workers winging this stuff, you have felt how critical it is that that your library identify and articulate a position on each item.

5.4. If your employer has a position you **DEEPLY DISAGREE*** with, pre-identify what you will do in the moment.

For example:

If your library has a “maximum cooperation” stance, and you disagree with that, will you provide more than the bare minimum when directed to help LE?

If your library has a policy of announcing the presence of LE, and you disagree with that, will you assist with the announcement?

If your library has a “no recording LE” policy, but you feel compelled to bear witness during an arrest, would you record anyway?

Identify why you disagree, and how you will not follow it. Discuss this with your personal lawyer (prior to an incident).

Your lawyer can help you identify the best way to not follow the directive or policy.

It is important to know that your lawyer may counsel you that failure to follow your employer’s policies may result in termination.

* By “DEEPLY DISAGREE,” I don’t mean you think it’s a bad idea... I mean that when push comes to shove, you know you won’t be able to do it.

5.5. If you are in a union, alert your union representative as to any concerns.

The union representative should be given enough information so they can advocate for employees in the unit.

5.6. Retain a personal attorney with relevant experience (employment law) to simply be “on standby.”

Most attorneys can be retained and put “on standby” without the client(s) paying a large fee.

THIS DOES NOT HAVE TO COST A LOT OF MONEY.

Your local bar association can recommend an attorney with the right experience.

Remember, the American Library Association’s Merritt Fund is there to help defray costs of local counsel for librarians under attack for doing their jobs.

5.7. Assemble a trusted support group and have fun together from time to time.

This one is up to you. Take care of yourself so you can take care of others.

Your Questions

1. Are library staff members obligated to respond to inquiries from ICE?

ANSWER: NO.

That said, ICE has the authority to examine a copy of each employee's Form I-9 ("I-9 review") within 3 days of presenting an appropriate notice, which should be reviewed by an attorney upon receipt.

Library policies may prohibit staff from providing other information to law enforcement, including ICE, without a judicial warrant, subpoena, or court order. See: <https://wnylrc.org/raq/responding-leo-others-requests-library-user-information>

2. What are library workers allowed to say when/if ICE agents come in?

ANSWER: Library policy may require employees to give a standard response referring law enforcement officers to the library director.

3. How can we tell ICE that they cannot harass our patrons in the library? Or do they have the right to do that?

ANSWER: Every library should have a code of conduct. Law enforcement officers, including ICE agents, may be asked to leave a library if they violate the library's code of conduct, such as by harassing patrons.

4. If ICE enters your library without a warrant or explanation, just looking, is it a crime to hide a patron or student?

ANSWER: Hiding a subject of a federal law enforcement inquiry may constitute obstruction of justice or obstruction of a criminal investigation, which are federal crimes. See: 18 U.S. Code § 1503 and § 1510.

5. If we see an ICE agent talking to a patron, can we interrupt to hand the patron a Know Your Rights red card?

ANSWER: Interrupting an ICE agent's inquiry could result in being accused of obstruction. While you may approach a law enforcement officer interrogating a patron and ask, "May I help you?" and offer resources, it is safer to keep your distance, take notes, and ensure that such encounters are recorded on video. It is important to note that ICE agents often wear plainclothes or clothes that simply read "POLICE." You may ask them for their name, badge number, and agency, which will allow you to contact the agency and confirm the identity of the agent. This information will be useful to attorneys in the event of an arrest or detention.

6. What is my role as a public librarian if an ICE agent comes in to search or even requests information about a patron?

ANSWER: ICE agents may not search anyone, search nonpublic areas, or obtain information from anyone without a judicial warrant, court order, or the consent of the subject of a search or request. Public library employees may direct all law enforcement requests to the library director, who may require a judicial warrant for a search and a court order or subpoena to disclose library records.

7. *Are the police allowed to remove undocumented people from the library?*

ANSWER: Law enforcement officers may arrest or detain anyone in public areas of the library. To access clearly marked nonpublic areas, the library may require a judicial warrant or court order. Arrests or detention require probable cause, a signed judicial warrant, or consent of the subject arrested or detained.

8. How can ICE visits be handled by the library when we are closed to the public, yet the building is in use by community partners?

ANSWER: Public libraries may not be closed to the public when in use by community partners (as opposed to when the premises are rented out). Volunteers and employees are responsible for following library policies when leading such programs, including policies relating to law enforcement visits. See: <https://wnylrc.org/raq/use-meeting-rooms-outside-library-hours>.

9. How do we best protect library staff who may be targeted by ICE?

ANSWER: ICE has the authority to examine a copy of each employee's Form I-9 within 3 days of presenting an appropriate notice, which should be reviewed by an attorney upon receipt. Libraries can protect employees who are targeted by ICE by notifying them and their union representatives, consulting an immigration attorney, and taking all three days to carefully assemble the required I-9 forms.

Libraries can additionally protect employees and volunteers by training them to follow procedures that direct them to refer all inquiries to the library director. Finally, libraries may host “know your rights” training sessions for library staff.

10. How can I best protect myself?

ANSWER: See Section V of the “Guide.”

11. If ICE visits the library and leaves with a person, what info should we record and who should we contact with that info?

ANSWER: Library staff may record all relevant information and attempt to contact the individual's family, attorney, and/or labor union. Especially useful information includes:

- How many ICE agents were present (inside and outside)?
- How were the agents dressed? How were they armed?
- Did the agents make anyone believe they could not move or leave?
- Did the agents mistreat anyone? If yes, how?
- Where was the detained individual taken? (You may ask ICE agents this.)

12. What if I want to record a Law Enforcement action in the Library on my personal cell phone?

Answer: It is not illegal to record law enforcement in the library, so long as the act of recording is not an obstruction.

Employees recording law enforcement in the library should take care to stay far enough away as to not impede the operation.

Employees creating such a recording should be ready for it to be demanded by lawyers for either side.

Recordings made by library staff while working may be subject to public disclosure under the Freedom of Information Law (FOIL). If a library is explicitly allowing and/or encouraging such recording, FOIL arguably applies to any such recording.

13. How do legal requirements/compliance change if the patron records being requested are for a minor (under 18)?

ANSWER: Library user records are confidential under New York State law regardless of patron age (see: Civil Practice Law and Rules Section 4509). Library user records from school, college, and university libraries are additionally confidential under the Family Education Rights and Privacy Act (FERPA) regardless of patron age.

14. What are the legal implications of retaining patron information submitted on paper applications for library cards?

ANSWER: Library user records are confidential under New York State law whether on paper or in a computer system. See Civil Practice Law and Rules Section 4509. The Retention and Disposition Schedule for New York Local Government Records (LGS-1) requires all library card application records to be retained until 3 years after each card expires or becomes inactive. See:

<https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/728694/LGS-1.pdf>

15. What are my rights if I am approached by ICE or other law enforcement if I am a United States citizen?

ANSWER: When approached by an ICE agent, U.S. citizens have the same rights as anyone else in the U.S. and the same rights as when approached by any other law enforcement officer. You may declare your right to remain silent under the Fifth Amendment and ask for an attorney. You may also refuse to be searched or detained without probable cause or a signed judicial warrant.

16. What if someone is here illegally but they're a student attending a local college?

ANSWER: Anyone who is concerned about their own legal status should contact an immigration attorney. Students may apply for student visas to obtain legal status.

17. What if we are patrons in the public library? What options are available to us even if we don't work there?

ANSWER: As a patron, you are free to leave the library at any time unless a law enforcement officer has probable cause to detain you. You may declare your right to remain silent under the Fifth Amendment and ask for an attorney. You may also refuse to be searched without probable cause or a signed judicial warrant.

18. Please discuss the difference between Article II and Article III warrants, and how one can identify them.

ANSWER: An “Article II” or “administrative” warrant is issued by an executive branch agency of the federal government, such as ICE. An “Article III” or “judicial” warrant is issued by a federal court. Judicial warrants must be signed by a judge in order to be enforceable. Administrative warrants are signed by a law enforcement agent, but this in itself does not confer authority to enter nonpublic areas without consent.

AO 93 (Rev. 11/13) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of
(Briefly describe the property to be searched
or identify the person by name and address)

)
) Case No.
)
)
)

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search
of the following person or property located in the District of
(Identify the person or describe the property to be searched and give its location):

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property
described above, and that such search will reveal (Identify the person or describe the property to be seized):

YOU ARE COMMANDED to execute this warrant on or before (not to exceed 14 days)
in the daytime 6:00 a.m. to 10:00 p.m. at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the
person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the
property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory
as required by law and promptly return this warrant and inventory to (United States Magistrate Judge)

Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C.
§ 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose
property, will be searched or seized (check the appropriate box)
for days (not to exceed 30) until, the facts justifying, the later specific date of

Date and time issued: Judge's signature

City and state: Printed name and title

U.S. DEPARTMENT OF HOMELAND SECURITY Warrant for Arrest of Alien

File No. _____

Date: _____

To: Any immigration officer authorized pursuant to sections 236 and 287 of the
Immigration and Nationality Act and part 287 of title 8, Code of Federal
Regulations, to serve warrants of arrest for immigration violations

I have determined that there is probable cause to believe that
is removable from the United States. This determination is based upon:

- the execution of a charging document to initiate removal proceedings against the subject;
the pendency of ongoing removal proceedings against the subject;
the failure to establish admissibility subsequent to deferred inspection;
biometric confirmation of the subject's identity and a records check of federal
databases that affirmatively indicate, by themselves or in addition to other reliable
information, that the subject either lacks immigration status or notwithstanding such status
is removable under U.S. immigration law; and/or
statements made voluntarily by the subject to an immigration officer and/or other
reliable evidence that affirmatively indicate the subject either lacks immigration status or
notwithstanding such status is removable under U.S. immigration law.

YOU ARE COMMANDED to arrest and take into custody for removal proceedings under the
Immigration and Nationality Act, the above-named alien.

(Signature of Authorized Immigration Officer)

(Printed Name and Title of Authorized Immigration Officer)

Certificate of Service

I hereby certify that the Warrant for Arrest of Alien was served by me at (Location)
on (Name of Alien) on (Date of Service), and the contents of this
notice were read to him or her in the (Language) language.

Name and Signature of Officer

Name or Number of Interpreter (if applicable)

Form I-200 (Rev. 09/16)

19. Does being in K-through-12 schools differ in rights or responsibilities from public libraries or institutes of higher learning?

ANSWER: It could. School districts and higher education institutions may adopt policies extending to their libraries and governing how they respond to law enforcement. Also, colleges and universities are required to have relationships with law enforcement (see: <https://wnylrc.org/raq/responding-leo-others-requests-library-user-information>).

20. What kind of board policy would strengthen the staff directive, “Only the library director should speak with law enforcement”?

ANSWER: A board policy titled “Policy and Procedures for Responding to Law Enforcement Inquiries” could serve this purpose.

21. Can the library share security video with police to assist in a library problem like theft, altercation, or vandalism?

ANSWER: Yes, libraries may share security video footage and other library user records when making a police report necessary for the operation of the library. See:

<https://wnylrc.org/raq/responding-leo-others-requests-library-user-information>.

22. How do we take the fear away from patrons and everyday citizens?

ANSWER: Libraries may host “know your rights” training sessions for their communities, and library boards of trustees may adopt resolutions and policies affirming the confidentiality of patron records and prohibiting voluntary cooperation with law enforcement.

23. What are some resources for libraries without social workers if parents get separated from children?

ANSWER: You may refer them to your county's bar association and/or legal aid groups for an immigration attorney and to your county's social and/or child protection services for a social worker.

24. What happens when you reside in a MAGA community where the village mayor & trustees & the supervisor & 50% of library trustees are GOP?

ANSWER: Libraries in conservative communities should adopt and enforce policies and procedures for responding to law enforcement inquiries just as all other libraries should do.

25. How can I keep patrons and employees who are legal but may be targeted safe and legally "resist" ICE to help them?

ANSWER: If you are a library leader, follow Sections III and IV of the “Guide” and ensure your library’s policies and training reflect the answers. If you are a library worker who does not set policy, follow Section V.

26. What do you think of sanctuary policies in libraries (i.e., policies for *not* collecting identification docs or personal info)?

ANSWER: These are not “sanctuary policies” so much as having clear policy as to when library resources may be used onsite or remotely without a personal library record being developed. For confidentiality and privacy, this should be done whenever library operations do not require personal verification of the person being served.

27. What do the various warrants look like?
What info can we give to someone being
arrested, i.e. card with legal contact info?

ANSWER: The only way to know a warrant is valid is to identify not only the format (which can be easily duplicated... although that is a crime), but the source. This is why ALL warrants, court orders, subpoenas, and requests for I-9's should promptly be reviewed by the library director (or designee) and the library's legal counsel before being honored.

28. Are ESOL classrooms protected from ICE since they are classes that require registration?

ANSWER: ESOL classes are offered by a variety of entities. If the classes are taught in a rented or reserved room that is limited to only the instructor and students during the class, a warrant or probable cause would be needed for LE to access the premises. If the class is in an open or unrestricted area, LE has the same access as the general public.

29. Wouldn't it make sense for libraries to delete the borrowing record after a book is returned?

ANSWER: Great question...libraries should ALWAYS do that!
As allowed by the LGS-1, even public libraries only have to retain borrowing records for so long as they are “useful.” The retention period is “0” to protect borrower confidentiality!

Any further questions?

Law Enforcement Investigations in the Library Cheat Sheet

When law enforcement (LE) is on site and conducting an investigation:

1. Ask for their name(s) and agency/agencies to verify their identity.
2. Notify the library director and others, as trained.
3. Library workers should say: "We are referring you to our director, as we are trained to not disclose library information."
4. Library leadership should PROMPTLY contact an attorney to evaluate warrants, court orders, subpoenas, and requests for I-9 forms per policy; sometimes, the attorney should be the one to reply to LE.
5. NO ONE should grant access to private areas or systems until an LE request is evaluated per library policy.
6. If LE attempts to obtain access after being denied, do not resist but clearly say: "ACCESS IS DENIED." This may be helpful later.
7. Document everything per library policy.

Never physically intervene or argue if search or seizure occurs without proper authorization, it will be more helpful to be able to say later: "We repeatedly said, *'Access is not granted.'*"

Law Enforcement Investigations in the Library Cheat Sheet

When law enforcement (LE) is on site and conducting an investigation:

1. Ask for their name(s) and agency/agencies to verify their identity.
2. Notify the library director and others, as trained.
3. Library workers should say: "We are referring you to our director, as we are trained to not disclose library information."
4. Library leadership should PROMPTLY contact an attorney to evaluate warrants, court orders, subpoenas, and requests for I-9 forms per policy; sometimes, the attorney should be the one to reply to LE.
5. NO ONE should grant access to private areas or systems until an LE request is evaluated per library policy.
6. If LE attempts to obtain access after being denied, do not resist but clearly say: "ACCESS IS DENIED." This may be helpful later.
7. Document everything per library policy.

Never physically intervene or argue if search or seizure occurs without proper authorization, it will be more helpful to be able to say later: "We repeatedly said, 'Access is not granted.'"



(For an explanation of the chicken, watch Stephanie "Cole" Adams' presentation, "Patrolling the Stacks" sponsored by ESLN.)

Thank You

White Dorking Hen, from the Prize and Game Chickens series (N20) for Allen & Ginter Cigarettes; Publisher Allen & Ginter American; Lithographer The Gast Lithograph & Engraving Company American; 1891; Image courtesy of Metropolitan Museum of Art Open Access

