STATEMENT REGARDING PATRON RIGHTS & CONFIDENTIALITY

I. The Jacob Burns Law Library adheres to the “Library Bill of Rights” of the American Library Association (ALA) as amended January 23, 1980, and reaffirmed January 23, 1996. A copy of the document is provided with this statement as “Attachment A” and also is available at the Law Library Reference Desk.

II. The Jacob Burns Law Library adheres to the policy of the ALA concerning confidentiality of personally identifiable information about library users as adopted July 2, 1991, and amended June 30, 2004. A copy of the document is provided with this statement as “Attachment B” and also is available at the Law Library Reference Desk.

III. In implementing the ALA policy concerning confidentiality of personally identifiable information about library users, the Burns Law Library follows the suggested procedures recommended by the ALA Intellectual Freedom Committee. A copy of the procedures of the Burns Law Library is provided with this statement as “Attachment C” and also is available at the Law Library Reference Desk.

IV. The Jacob Burns Law Library adheres to the Code of Ethics of the American Association of Law Libraries (AALL) as adopted September, 1978. A copy of the document is provided with this statement as “Attachment D” and also is available at the Law Library Reference Desk.

V. A copy of the guidelines developed for use by the staff of the Jacob Burns Law Library in implementing this policy is provided with this statement as “Attachment E” and also is available at the Law Library Reference Desk.

VI. Materials which are not considered by the Library to be part of the collection (memoranda by librarians, employment records, statistical and financial reports prepared or received by librarians in the course of their work, etc.) are not subject to requests by patrons.

ATTACHMENT A

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 that 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.

ATTACHMENT B

ALA POLICY CONCERNING CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION ABOUT LIBRARY USERS

"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" (Privacy: An Interpretation of the Library Bill of Rights).

The ethical responsibilities of librarians, as well as statutes in most states and the District of Columbia, protect the privacy of library users. Confidentiality extends to "information sought or received and resources consulted, borrowed, acquired or transmitted" (ALA Code of Ethics), and includes, but is not limited to, database search records, reference interviews, circulation records, interlibrary loan records and other personally identifiable uses of library materials, facilities, or services.

The First Amendment's guarantee of freedom of speech and of the press requires that the corresponding rights to hear what is spoken and read what is written be preserved, free from fear of government intrusion, intimidation, or reprisal. The American Library Association reaffirms its opposition to "any use of governmental prerogatives that lead to the intimidation of individuals or groups and discourages them from exercising the right of free expression as guaranteed by the First Amendment to the U.S. Constitution" and "encourages resistance to such abuse of governmental power . . ." (ALA Policy 53.4). In seeking access or in the pursuit of information, confidentiality is the primary means of providing the privacy that will free the individual from fear of intimidation or retaliation.

The American Library Association regularly receives reports of visits by agents of federal, state, and local law enforcement agencies to libraries, asking for personally identifiable information about library users. These visits, whether under the rubric of simply informing libraries of agency concerns or for some other reason, reflect an insensitivity to the legal and ethical bases for confidentiality, and the role it plays in the preservation of First Amendment rights, rights also extended to foreign nationals while in the United States. 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. It also is a threat to a crucial aspect of First Amendment rights: that freedom of speech and of the press include the freedom to hold, disseminate and receive unpopular, minority, extreme, or even dangerous ideas.

The American Library Association recognizes that law enforcement agencies and officers may occasionally believe that library records contain information that would be helpful to the investigation of criminal activity. The American judicial system provides the mechanism for seeking release of such confidential records: a court order, following a showing of good cause based on specific facts, by a court of competent jurisdiction. ¹
The American Library Association also recognizes that, under limited circumstances, access to certain information might be restricted due to a legitimate national security concern. However, there has been no showing of a plausible probability that national security will be compromised by any use made of unclassified information available in libraries. Access to this unclassified information should be handled no differently than access to any other information. Therefore, libraries and librarians have a legal and ethical responsibility to protect the confidentiality of all library users, including foreign nationals.

Libraries are one of the great bulwarks of democracy. They are living embodiments of the First Amendment because their collections include voices of dissent as well as assent. Libraries are impartial resources providing information on all points of view, available to all persons regardless of origin, age, background, or views. The role of libraries as such a resource must not be compromised by an erosion of the privacy rights of library users.

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1 See Confidentiality and Coping With Law Enforcement Inquiries: Guidelines for the Library and its Staff, ALA Office for Intellectual Freedom.

ATTACHMENT C

ALA PROCEDURES FOR IMPLEMENTING POLICY ON CONFIDENTIALITY OF LIBRARY RECORDS

1. The library staff member receiving the request to examine or obtain information relating to circulation or other records identifying the names of library users must immediately refer the person making the request to the responsible officer of the institution, who shall explain the confidentiality policy.

2. The director, upon receipt of such process, order, or subpoena, shall consult with the appropriate legal officer assigned to the institution to determine if such process, order, or subpoena is in good form and if there is a showing of good cause for its issuance.

3. If the process, order, or subpoena is not in proper form or if good cause has not been shown, the library should insist that such defects be cured before any records are released.

4. The legal process requiring the production of circulation or other library records is ordinarily in the form of a subpoena duces tecum (bring your records) requiring the responsible library officer to attend court or to provide testimony at his or her deposition. It also may require him or her to bring along certain designated circulation or other specified records.

5. Staff should be trained and required to report any threats or unauthorized demands (e.g., those not supported by a process, order, or subpoena) concerning circulation and other records to the appropriate officer of the institution.

6. Any problems relating to the privacy of circulation and other records identifying the names of library users that are not provided for above shall be referred to the responsible officer.

Adopted by the ALA Intellectual Freedom Committee January 9, 1983; revised January 11, 1988; revised March 18, 2005.
ATTACHMENT D

AMERICAN ASSOCIATION OF LAW LIBRARIES CODE OF ETHICS

The American Association of Law Libraries espouses the statement of professional ethics promulgated by the American Library Association, which states that: “A librarian

- has a special responsibility to maintain the principles of the Library Bill of Rights.
- should learn and faithfully execute the policies of the institution of which one is a part and should endeavor to change those which conflict with the spirit of the Library Bill of Rights.
- must protect the essential confidential relationship which exists between a library user and the library.
- must avoid any possibility of personal financial gain at the expense of the employing institution.
- has an obligation to insure equality of opportunity and fair judgement of competence in actions dealing with staff appointments, retentions, and promotions.
- has an obligation when making appraisal of the qualifications of any individual to report the facts clearly, accurately, and without prejudice, according to generally accepted guidelines concerning the disclosure of personal information.”

In addition, the Association, in light of the special character and mission of its membership, espouses the principles that law librarians, while engaged in their professional work,

- have a duty neither to engage in the unauthorized practice of law nor to solicit an attorney-client relationship.
- have a duty to avoid any situations posing a possible undisclosed conflict of interest.
- have a special duty, given the nature of their patron base, to treat confidentially any private information obtained through contact with library patrons and not to divulge any confidential information to persons representing adverse interests.
- have a duty to exercise scrupulous care in avoiding any acts or even the appearance, of misappropriating the work product of library patrons or professional colleagues to their own credit or profit.
- have a duty actively to promote free and effective access to legal information.
- have a duty to society and the legal profession to work both individually and through their professional organizations toward improving the quality and minimizing the cost of the library component of the delivery of legal services.

Adopted by the American Association of Law Libraries, September 1978.
ATTACHMENT E

GUIDELINES FOR IMPLEMENTATION OF POLICIES ON CONFIDENTIALITY
ADOPTED BY THE JACOB BURNS LAW LIBRARY

I. CONFIDENTIALITY OF CIRCULATION RECORDS

A. The identity of persons borrowing materials owned by or in the possession of the Jacob Burns Law Library will not be revealed to any person who is not an employee of the Law Library except for procedures outlined in Attachment C for releasing library records. The procedures in Attachment C also must be followed for requests relating to materials loaned to other institutions through interlibrary loan.

B. It should be noted that the automated circulation system used by the Law Library is incapable of determining which books were checked out to any individual once the books are returned to the Library, thus ensuring the privacy of the borrower. However, some standard manual library procedures, such as manual check-out cards and routing labels applied to unbound periodicals, may inadvertently reveal the name of a previous borrower.

II. CONFIDENTIALITY OF REFERENCE/RESEARCH REQUESTS

A. Staff should hold confidential any requests received by them.

B. Librarians may need to consult with other members of the library staff, including other professionals and support staff in circulation and interlibrary loan departments, to fulfill a reference/research request for a patron. Staff members consulted as part of the reference/research process should, in turn, hold communications regarding the request in confidence.

C. Library staff members working together on reference/research requests should not discuss requests in public areas. Records kept during the research process which may be useful in later research for the patron should be treated in a fashion similar to circulation records and released to individuals not affiliated with the Library only through procedures described in Attachment C.

D. Resources not available in the Library may be needed by the patron or required by a librarian to fill a request. If a request must be filled through means other than traditional interlibrary procedures (such as online or ALA interlibrary loan forms) and requires that a librarian or staff member make direct contact with an agency, institution, or office to obtain information, the staff person should refrain from divulging the name of the patron. If the name of the patron is requested by the agency, institution, or office to obtain the information, the patron should be contacted for approval before proceeding.