

The USA PATRIOT Act and libraries

In the past few months, a large amount of attention has been paid, in the media and on Capitol Hill, to sections of the USA PATRIOT Act, which are scheduled to sunset at the end of this year. ALA's Washington Office has been actively involved in making the case that Section 215 of the PATRIOT Act should be allowed to sunset in December, or be modified so that it does not intrude on reader privacy rights.

But Justice Department officials continue to state that the USA PATRIOT Act does not mention libraries, implying that Section 215 does not impact libraries. While it is true that libraries are not specifically mentioned, neither are any other specific institutions or entities. The USA PATRIOT Act broadly amended the Foreign Intelligence Surveillance Act in order to permit the FBI to access "any tangible thing" from any entity. That plainly includes libraries and all library records, including those that detail the reading and viewing habits of library patrons. Previously, under Section 501 of FISA, the FBI had to name a person and give the FISA Court "reason to believe" that person was a suspected spy or terrorist. Now, they no longer have to meet that requirement, nor are they limited to specific entities or records in any way. The FBI needs only to inform the FISA Court that records are "sought" for an authorized intelligence investigation. Together these changes in the law have created an unprecedented ability for the government to obtain highly personal information about Americans who are exercising their First Amendment right to read and access information.

We take issue with the suggestion in the Justice Department report that ALA has called for the repeal of Section 215 of the USA PA-

TRIBUT Act. We have asked and will continue to ask for narrow changes that will better balance cherished First Amendment rights with the critical need to investigate terror.

Justice Department officials have also continued to assert that libraries will become "safe havens for terrorists and spies," if Section 215 is modified. Libraries are not safe havens nor will they become so if the modest safeguards to Section 215 included in the Security and Freedom Ensured Act (SAFE) (S. 737) or the Security and Freedom Enhanced (H.R. 1526) are enacted. It doesn't make sense for the Justice Department to claim on the one hand that Section 215 has not been used against libraries, and then on the other to claim that modest changes to the law will turn libraries into terrorist safe havens. The FBI has been using authority granted by other laws to access records in libraries and they will continue to have that authority if Section 215 is modified.

The 1.2 billion users who visit America's libraries every year need to be assured that they have the freedom to read and research without fear that their reading habits will be gathered up in an overly broad search. The ALA Washington Office continues to work to ensure that the government does not trample the rights of readers and library users.

At ALA Annual Conference in June, the Washington Office will be releasing the results of a study that assesses the impact of the USA PATRIOT Act on America's libraries and library patrons. Working with several teams of academic researchers, ALA has worked to quantify and examine contacts by federal law enforcement agencies in public and academic libraries. The survey results will provide much-needed information to inform the debate about law enforcement's role in libraries and the effect that the law enforcement activity is having on library users. We hope you'll be on the lookout for survey data in Chicago this June. ✍

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