

## THE USA PATRIOT ACT AND LIBRARIES

Immediately after the terrorist attacks of September 11, 2001, the U.S. Administration sought new legislation to expand the government's powers in the areas of surveillance and investigation. The major legislative initiative was the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ([USA PATRIOT ACT](#)). Almost immediately the American Library Association (ALA), as well as a variety of state and local library organizations, expressed their strong opposition to parts of the Act as violating the library community's long-time commitment to privacy and to freedom of access to information (see "[Resolution on the USA Patriot Act and Related Measures That Infringe on the Rights of Library Users](#)" and "[USA Patriot Act Resolutions of State Library Associations](#)").

Of particular concern was the portion of the Act that prohibited librarians from informing patrons or even colleagues that material, resources or records were the object of an investigation.

ALA has since produced numerous documents that relate to the USA PATRIOT Act. Of note is a brief summary of the impact of the Act on libraries (see "[The USA Patriot Act in the Library](#)") and, because provisions of the Act place special requirements on librarians, a document on how to respond to warrants under the Act titled, "[USA Patriot Act Search Warrant](#)."

In June, 2004, ALA updated two important documents. "[The Freedom to Read Statement](#)" was amended to include language addressing the perceived danger "that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals." The document further stated that "The shadow of fear cast by these pressures leads... ..to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials." The second document, "[Policy on Governmental Intimidation](#)," re-emphasized the stance of the profession against government policies that intimidate users in the legitimate exercise of their freedom of expression.

On March 9, 2006, legislation reauthorizing the USA PATRIOT Act was passed. The reauthorization made some minor changes in the Act, specifically related to Section 215, allowing access to library records, materials and resources, and Section 505, on the issuance of National Security Letters. The reauthorization extends the sunset provision of Section 215 to December 31, 2009. It also slightly tightens the rules governing access to library materials and records. Under the original Act "the FBI had only to assert records were sought of an authorized investigation." Under the new legislation the FBI can obtain such items if it has reasonable ground to believe the records are relevant to an authorized investigation. The reauthorization also slightly loosens the rules on who may be informed when an investigation is ordered and allows for challenges to these so-called "gag orders" after one year. Section 505 was amended to slightly tighten and revise the issuance of National Security Letters and revises the means of challenging such letters.

While the Maryland Library Association and the library community in general see these small steps as beneficial, the revised legislation does little to make the law more palatable. In most

aspects the law is still an impediment to privacy and due process. See the ALA document, “[USA PATRIOT Act Reauthorization Analysis](#)” for a more substantial analysis of the reauthorized.

Because of the important legal, personal and privacy ramifications of the Act, it is important that library staff be trained in how to respond to the various types of legal documents that might be served on the Library (subpoenas, search warrants, FISA warrants, etc.) and how they may vary (see “[Confidentiality and Coping with Law Enforcement Inquiries](#)”). Libraries should also have procedures in place for consulting with their legal counsel if such documents are served.

The USA PATRIOT Act, like any legislation, is subject to ongoing revision. For the latest information, consult the many web links referenced in this article, as well as the American Civil Liberties Union (ACLU) web site “[USA PATRIOT Act](#)” and the U.S. Department of Justice web site “[Preserving Life & Liberty](#).”

Works Cited in this article:

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Document Location:

<http://www.mdlib.org/divisions/ifap/patriotact.pdf> (revised 04/10/2006)