

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 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.

The Patriot Act was amended and extended in both 2009 and 2011 until June 1, 2015. Although certain provisions of the Patriot Act briefly expired in 2015, they came back into effect with the passage of the [USA Freedom Act](#). The Freedom Act reauthorized parts of the Patriot Act but bans the bulk collection of phone records and metadata and restricts the government from collecting all records from say a certain geographic area. The ALA hailed the Freedom Act as [a milestone in surveillance reform](#).

Despite the progress in rolling back some of the more objectionable aspects of this legislation, there

is still working to be done in protecting civil liberties and privacy. In most aspects the law is still an impediment to privacy and due process.

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](#)."



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Further Reading:

[USA Freedom Act](#). *House of Representatives Judiciary Committee*, (n.d.). Accessed 27 June 2017.

“[USA Freedom Act: What’s in, what’s out.](#)” *Washington Post*, 2 June 2015. Accessed 27 June 2017.

“[Preserving Life and Liberty.](#)” *United States Department of Justice*, 2006. Accessed 27 June 2017.

“[Surveillance Under the Patriot Act.](#)” *American Civil Liberties Union*, 2017. Accessed 27 June 2017.