

Library supporters influence dueling PATRIOT bills

Both the House and Senate passed PATRIOT Reauthorization bills in July. The Senate bill adds to the USA PATRIOT Act many of the safeguards for library and reader privacy that have been sought by the library community, including tougher requirements for searching library records under Section 215. The two bills will now be reconciled by a Conference Committee. A comparison of the bills follows:

- *Sunset provisions.* Both bills reauthorize sections of the PATRIOT Act that would expire at the end of this year. The House bill extends the sunset period for Section 215 to 2015; the Senate to 2009. The shorter sunset is preferable because it will result in more oversight by Congress.

- *Section 215.* The House legislation allows the FBI to obtain library records when they are “relevant” to a counter-terrorism or counter-espionage investigation. The Senate bill requires the FBI to give facts showing the records sought are “relevant to” the counter-terrorism or counter-intelligence investigation, and that items “pertain to” a foreign power, agent of a foreign power, or person in contact with a suspected agent or are “relevant to” the activities of a suspected agent who is the subject of the investigation. The Senate bill also requires records to be described with “sufficient particularity”—reducing the danger that the FBI will engage in fishing expeditions in library or bookstore records.

Both bills require the FBI director to personally approve any request for records from a library, and both bills allow the recipient of a Section 215 order to challenge the order.

The Senate bill requires that the Department of Justice report annually on the total number of applications made for Section 215 orders that approve requests for the production of tangible things.

- *Section 505.* Both Senate and House versions allow a recipient of a National Security Letter (NSL) to challenge the request in a U.S. District Court. The House version allows the court to set aside if it is “unreasonable” or “oppressive.” The Senate version permits the court to set it aside if “unreasonable” or “oppressive” or it would violate a constitutional or legal right.

Library grassroots efforts continue

Your grassroots efforts have been essential in securing privacy safeguards in the PATRIOT reauthorization bills. Please continue to call members of Congress asking them to preserve provisions of the Senate bill. We are happy to report that our efforts have been recognized on the Senate floor by Senator Richard Durbin (D-IL). His remarks follow.

“Let me say a word as I close. One of the most unlikely groups became so important in this debate—the American Library Association. I cannot recall a time in recent memory when this organization showed such leadership. Time and again, they came forward to tell us that they wanted to protect the privacy of their patrons at libraries across America who might come in and take out a magazine or book, and they certainly didn’t want to do that with the knowledge that the Government could sweep up all of the library records and sift through them to see if anybody had checked out a suspicious book. They sent us petitions gathered from libraries across the Nation, and I think they really did good work on behalf of our Constitution and our rights and liberties guaranteed under the Bill of Rights.

“I wish to dedicate any success we have with this revision of the PATRIOT Act to the American Library Association and all those who stood with them in asking that we make meaningful changes to the act without eliminating the important provisions that continue to make America safe.”

Source: *Congressional Record*, July 29, 2005, S 9561. ❧

Bernadette Murphy is communications specialist at ALA's Washington Office, e-mail: bmurphy@alawash.org