

Library Associations Statement On The USA PATRIOT Amendments Act of 2009

On October 20, 2009, House Judiciary Committee Chairman John Conyers (D-MI) and Representatives Jerrold R. Nadler (D-NY) and Bobby Scott (D-VA) introduced the USA PATRIOT Amendments Act of 2009 (H.R.3845). The Association of Research Libraries (ARL) and the American Library Association (ALA) believe that this bill contains necessary and important reforms to the powers created by the USA PATRIOT Act.

Background

Several provisions of the USA PATRIOT Act are set to expire on December 31, 2009 unless Congress acts to reauthorize them. This “sunsetting” provides lawmakers with an opportunity to revisit the USA PATRIOT Act and address the numerous shortcomings and abuses that have come to light in the years since its passage. The Senate Judiciary Committee took up these issues recently with disappointing results. Senator Feingold’s excellent proposals for comprehensive reform, which ARL and ALA endorsed, were passed over in favor of a minimal bill that would offer library patrons some limited protections for their offline activities, but does little else to address deep concerns with the original USA PATRIOT Act. The full Senate has yet to vote on a bill.

Necessary Reforms

Included among the sunsetting provisions is the so-called “library provision,” Section 215 of the original Act, which gave intelligence agencies unprecedented new powers to obtain information about members of the public, including library records, based on a minimal submission to a secret court. Another key USA PATRIOT Act power in need of reform is the National Security Letter (NSL) power, which allows government agents to obtain sensitive information about innocent Americans without any court order. Both Section 215 orders and NSLs can be accompanied by gag orders that forbid recipients from disclosing the government’s request. The NSL provisions are not expiring this year but their use so overlaps with Section 215, and their abuse is so well documented by the Inspector General of the Department of Justice, that it only makes sense to reform NSLs at the same time Section 215 is reformed.

The Conyers-Nadler-Scott Bill Gets It Right

The USA PATRIOT Amendments Act of 2009 includes several key reforms that restore important civil liberties without diminishing the government’s ability to conduct legitimate national security investigations. Chief among these are:

- Prohibition of use of Section 215 orders to obtain personally identifiable information about patrons from libraries or booksellers;
- Meaningful judicial review of Section 215 orders, NSLs, and the gag orders that prevent recipients from talking about these orders;
- Rational limits on gag orders including limits on their duration once challenged;
- Rational limits on the scope of NSLs so that they cannot be used unreasonably to gather information on innocent Americans;
- Minimization procedures to insure that information obtained using these powers is destroyed once it is no longer relevant to an ongoing investigation; and
- Yearly audits of the use of these powers and a new “sunset” that will give Congress an opportunity to consider further reform based on those audits.

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