

Sir,

Enclosed for your review are several summary documents addressing the relevant USA PATRIOT ACT sections: FISA business records (§215), NSLs (§505), roving wiretaps (§206), and the "Lone Wolf" provision (§6001(a)). For background, I have also provided the COINTELPRO committee report and a few brief items on the Library Awareness Program, both of which seem to frame the debate surrounding the FBI's perceived access to library records.

As discussed, there is concern the FBI may use (or has used) FISA business records requests to obtain library records, although the original language of the PATRIOT ACT did not mention libraries or library records. As noted in the enclosed documents, opposition to the "Library Provision" may be based on the perceived chilling effect access to these records may have on First Amendment rights and intrusions into areas protected by the Fourth Amendment. This concern may also be a residual response to the FBI's activities under COINTELPRO and the Library Awareness Program.

As §215 was amended to specifically address this concern, attention has shifted to whether the FBI may use NSLs to circumvent §215 requirements to obtain similar information. NSLs, however, may not be used to obtain records from a library unless the library is providing the specific services of an electronic communications provider.

Outside the Scope



Also a focus of concern, NSLs are issued directly by the FBI, without judicial oversight (as was the case of the FBI's activities under COINTELPRO). In response, additional oversight and regular reporting requirements on the use of NSLs have been implemented. Finally, public debate also looks to non-disclosure provisions of both FISA orders and NSLs (commonly referred to as gag orders) as another means by which the FBI might collect information unchecked. While there is currently a mechanism for judicial review, opponents do not believe these procedures to be "meaningful."



Please let me know if you need any additional information.



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Enclosures:

Documents provided in their entirety, with relevant portions highlighted, to provide background, issues, and legislative responses to each of the PATRIOT ACT sections discussed above:

Amendments to the Foreign Intelligence Surveillance Act (FISA) Set to Expire February 28, 2011
(CRS report, dated February 10, 2011)

Outside the Scope



Summary documents specific to libraries and the PATRIOT ACT:

CRS Summary: Libraries and the USA PATRIOT Act (dated July 6, 2005)

Relevant excerpt from responses by the FBI to March 27, 2007 hearing on FBI Oversight
(information believed current as of July 2007)

Miscellaneous documents framing the "Library Provision" debate:

American Library Association webpage on the USA PATRIOT Act: Why does it matter to libraries?
(the ALA website content is voluminous with regard to the FBI and libraries; the date of this information is believed to be late 2009)

Library Awareness Program defined by Wikipedia (succinct explanation of the program)

The Federal Bureau of Investigation's Program on Library Awareness (dated winter 2001; calls for disbanding the FBI, but provides the extreme viewpoint for reference)

COINTELPTRO Committee Report

