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The 4th Amendment to the U.S. Constitution, Article 3 of the ALA Code of Ethics, and Section 215 of the USA PATRIOT Act: Squaring the Triangle

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The 4th Amendment to the U.S. Constitution, Article 3 of the ALA Code of Ethics, and Section 215 of the USA PATRIOT Act: Squaring the Triangle

Sue Ann Gardner, University of Nebraska-Lincoln
NLA IFRT/TSRT Spring Meeting
Lincoln, Nebraska, March 6, 2015
September 11, 2001, Morning TV Coverage

Feds can confiscate library or patron property and information

They don’t have to say why they are there or what they are doing

Library staff cannot speak about what they have observed or with what they have been asked to comply
U.S. Constitution
Amendment IV
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
American Library Association
Code of Ethics

Article III. We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.
USA PATRIOT Act
Uniting and Strengthening America - Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act

The power of language over thought...
SEC. 215. ACCESS TO RECORDS AND OTHER ITEMS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT.

Title V of the FISA of 1978 ... is amended by striking sections 501 through 503 and inserting the following:

The so-called “library provision”
SEC. 501. ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE AND INTERNATIONAL TERRORISM INVESTIGATIONS.

(a)(1) The Director of the FBI ... may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) for an investigation to protect against international terrorism or clandestine intelligence activities ...
`[SEC. 501. (a)] ... (2) An investigation conducted under this section ...

`[(B)(b)] (1) shall be made to--
`(A) a judge of the court established by section 103(a); or 
`(B) a U.S. Magistrate Judge under chapter 43 of title 28, U.S. Code, who is publicly designated by the Chief Justice of the United States ...
SEC. 103. (a) The Chief Justice of the United States shall ... designate seven district court judges ... who shall constitute a court which shall ... grant orders approving electronic surveillance anywhere within the United States ...

(b) The Chief Justice shall ... designate three judges ... who together shall comprise a court of review ... If such court determines that [an] application was properly denied, the court shall ... provide ... a written statement of each reason for its decision and ... the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

(c) ...The record of proceedings under this Act ... shall be maintained under security measures established by the Chief Justice in consultation with the Attorney General and the Director of Central Intelligence.

Upshot: Under the control of the Supreme Court, Attorney General, & CIA; entirely secret.
[SEC. 501. (c)] ... (2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a).

(d) No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the FBI has sought or obtained tangible things under this section.

You do not have to be told that items are sought under the aegis of the PATRIOT Act &

GAG ORDER
Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety.

—Benjamin Franklin for the Pennsylvania Assembly in its Reply to the Governor, 1755.

Removed: Political cartoon of a plane nearing a World Trade Center tower in New York City on which the Bill of Rights from the United States Constitution is inscribed. On the plane is written “PATRIOT Act.”
Squaring the Triangle

4th Amendment to the U.S. Constitution

Professional guideposts

ALA Code of Ethics Article III

PATRIOT Act Section 215
Squaring the Triangle
4th Amendment to the U.S. Constitution

Section 215 is set to expire June 1, 2015

Professional guideposts

ALA Code of Ethics Article III  PATRIOT Act Section 215
Section 215 is set to expire June 1, 2015

It will almost certainly be renewed

Professional guideposts

ALACode of Ethics Article IIIPATRIOT Act Section 215

Squaring the Triangle
4th Amendment to the U.S. Constitution
“I guess this is what they mean by extending the PATRIOT Act!”

Removed: Political cartoon of two patrons in a library sitting at a table with a long spy glass pointed at them going through stacks of books with two Federal United States agents peering at them. The caption appears above.
Further Reading


The USA PATRIOT Act, American Library Association (http://www.ala.org/advocacy/advleg/federallegislation/theusapatriotact)

Reform the Patriot Act, American Civil Liberties Union (https://www.aclu.org/reform-patriot-act)
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