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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

Image courtesy fema.gov

September 11, 2001, Morning TV Coverage

Removed: Image of a plane approaching the World Trade Center tower in New York City on the morning of September 11, 2001.

Image courtesy datinggod.org

PATRIOT Act Debriefing, UNL Libraries, 2002

DeeAnn Allison

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

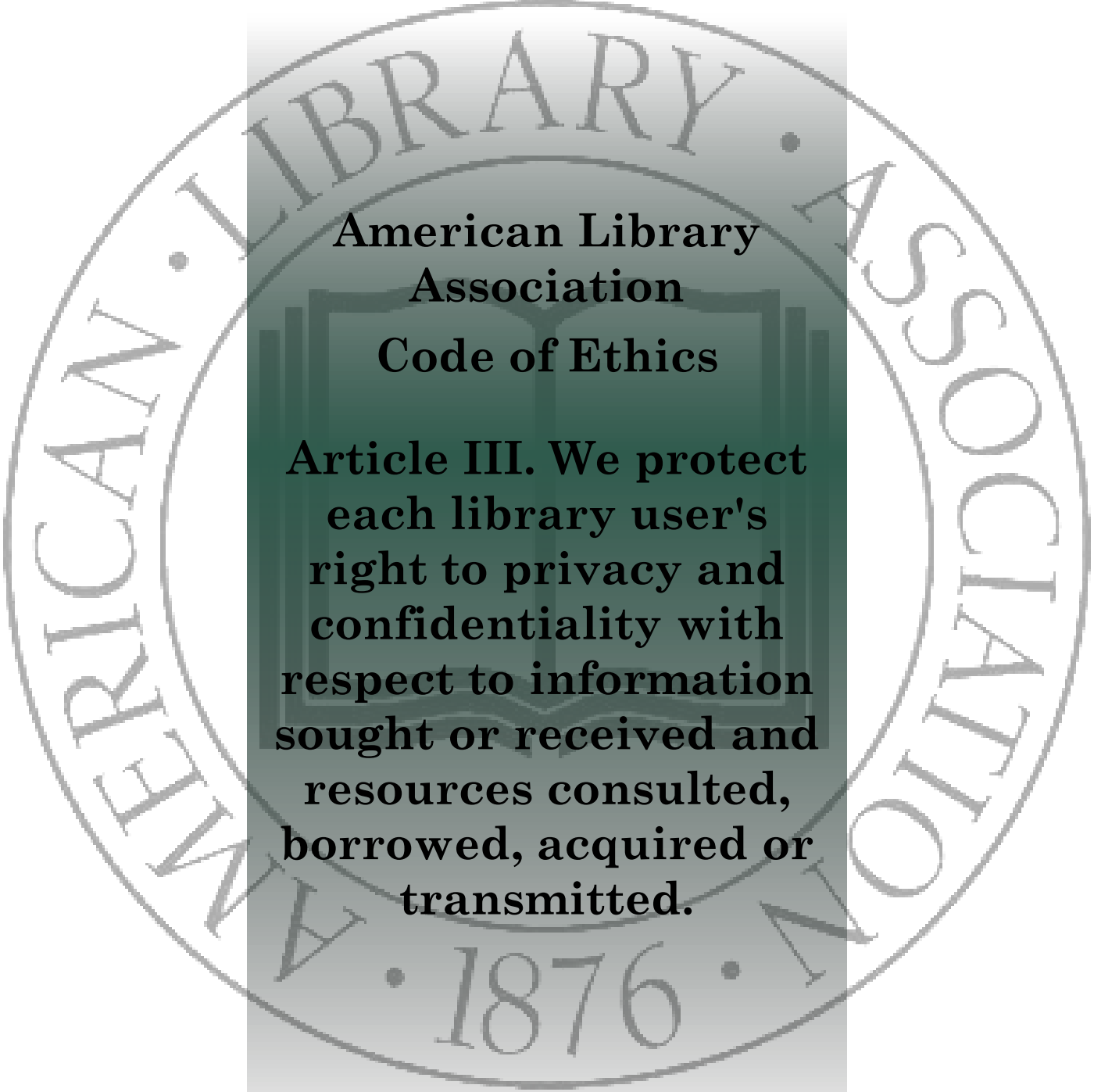
Image courtesy University of Nebraska-Lincoln

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.

Image courtesy garrett.house.gov

PRIVACY



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.

Image courtesy American Library Association

USA PATRIOT Act

Uniting and Strengthening America - Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act

Image courtesy Reuters

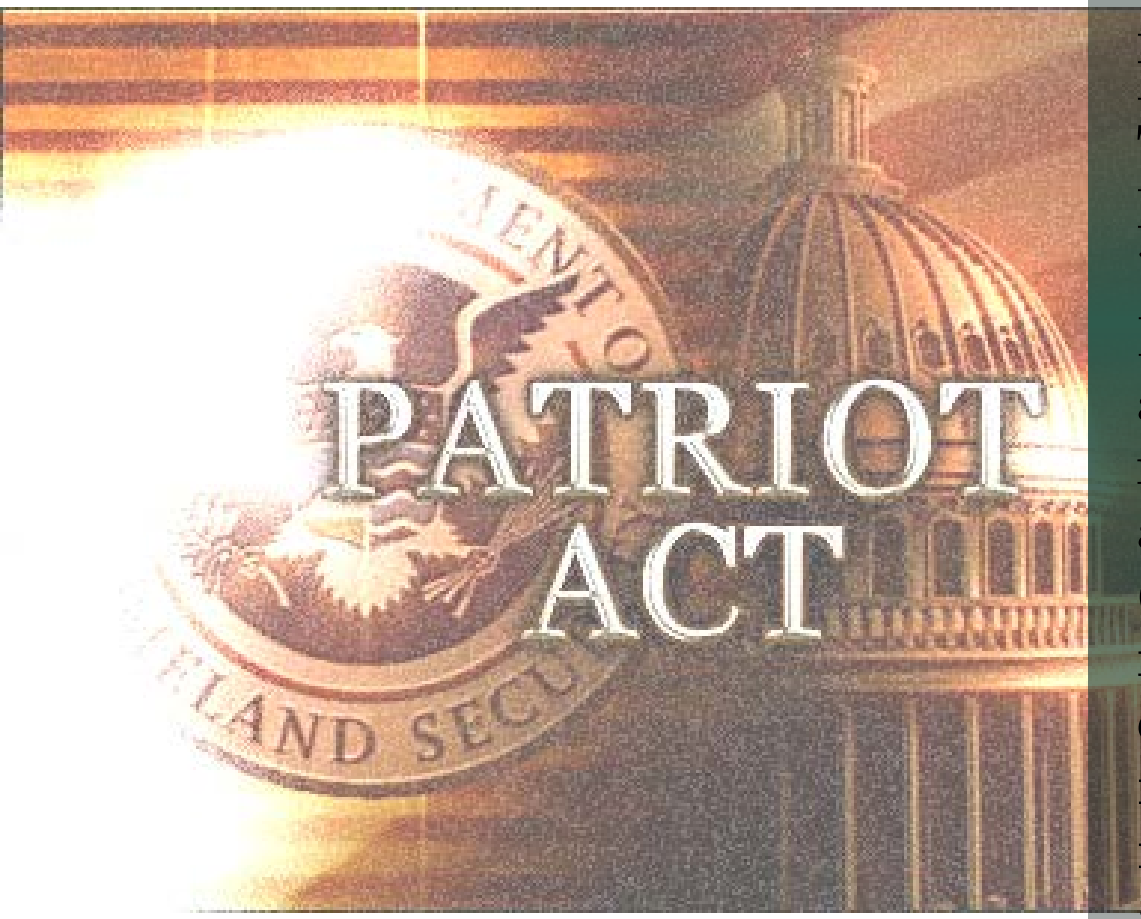
The power of language over thought…

USA PATRIOT Act Section 215

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”

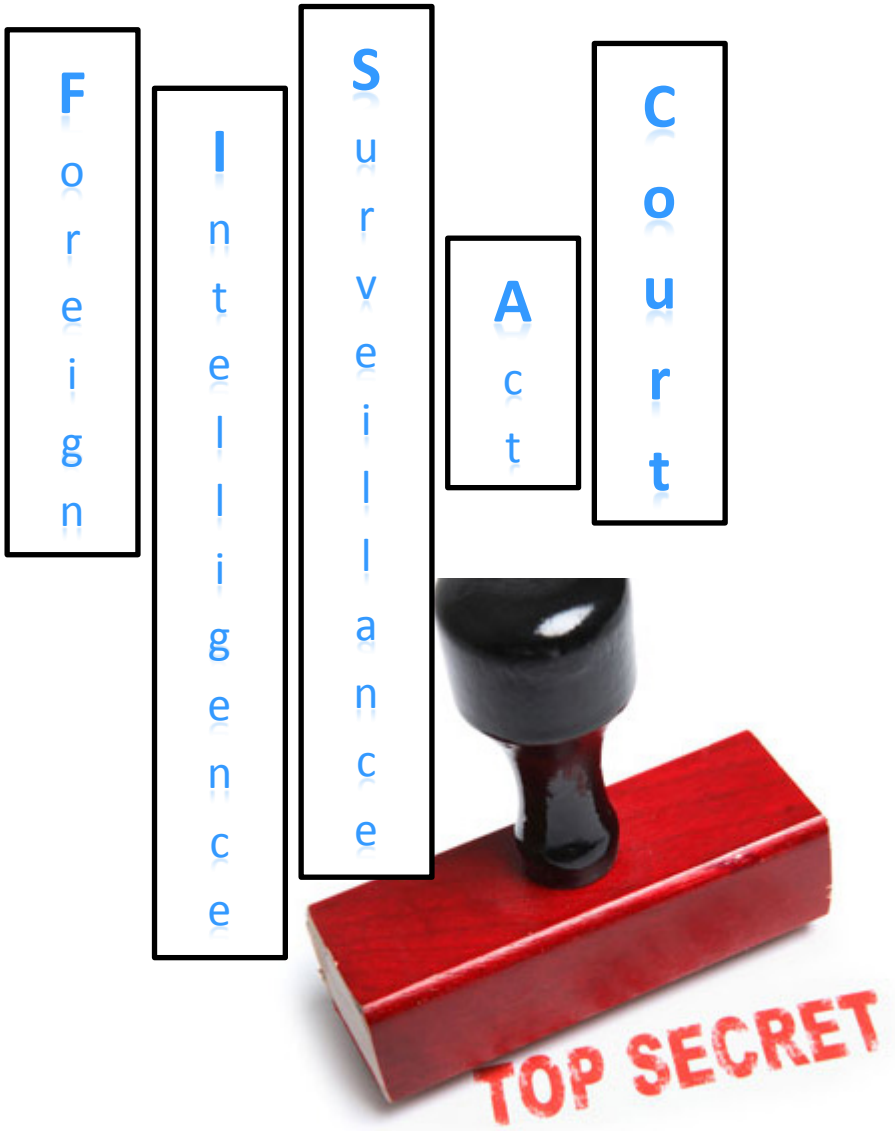
Image courtesy KATU.com



`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 …**

Image courtesy KATU.com



`[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 …

Image courtesy US Archives

FISA Court

92 STAT. 1788 PUBLIC LAW 95-511—OCT. 25, 1978: DESIGNATION OF JUDGES

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

Image courtesy Students against Censorship

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.”

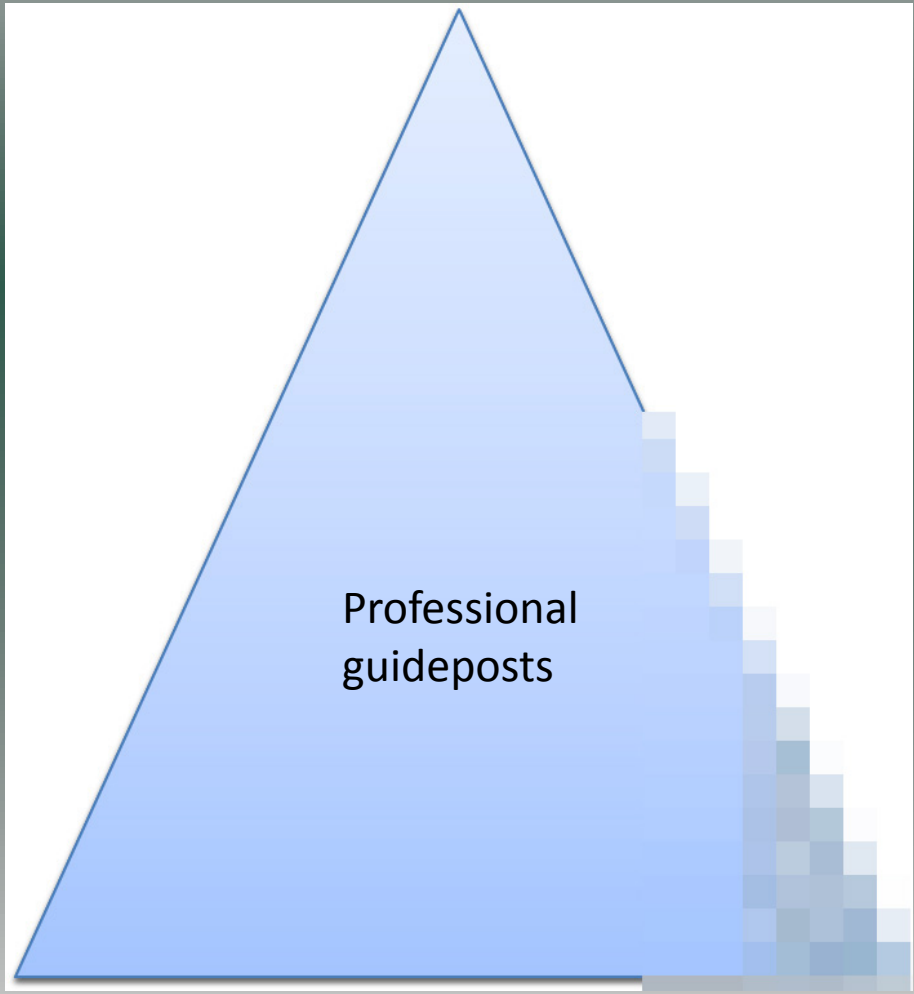
Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety.

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

Image courtesy Deesillustration.com

Squaring the Triangle

4th Amendment to the U.S. Constitution

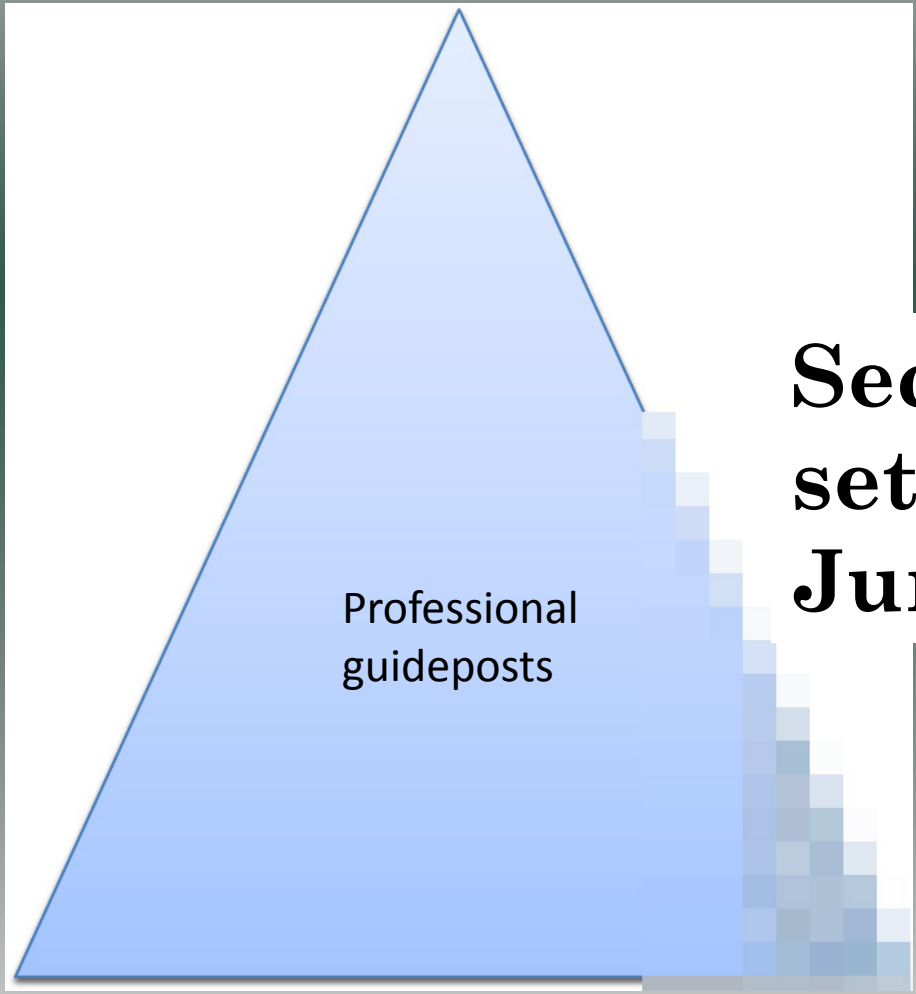


ALA Code of Ethics Article III

PATRIOT Act Section 215

Squaring the Triangle

4th Amendment to the U.S. Constitution



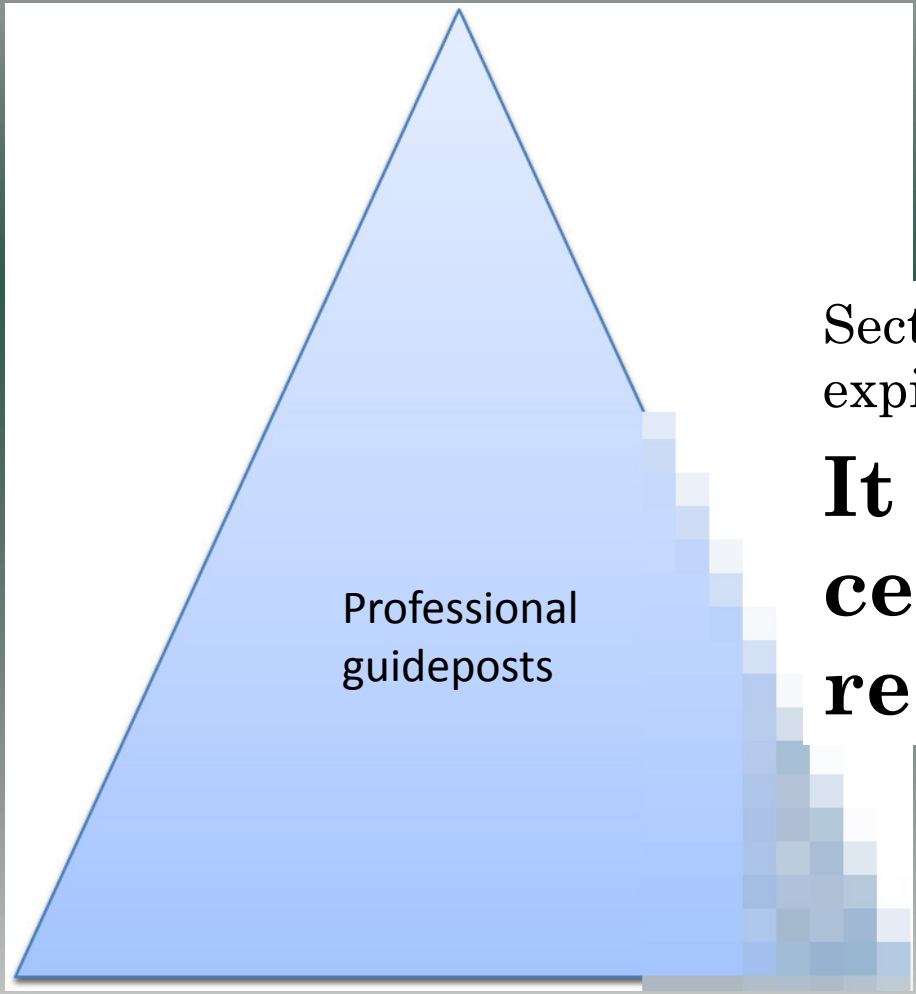
Section 215 is set to expire June 1, 2015

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

It will almost certainly be renewed

ALA Code of Ethics Article III

PATRIOT Act Section 215

Squaring the Triangle

4th Amendment to the U.S. Constitution

Strong civil liberties

ALA Code of Ethics Article III

Robust civic engagement

“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.

Image courtesy Chris Czapla

Further Reading

Librarians won't stay quiet about government surveillance, Andrea Peterson. *Washington Post*, October 3, 2014
(http://www.washingtonpost.com/blogs/the-switch/wp/2014/10/03/librarians-wont-stay-quiet-about-government-surveillance/)

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)

Graphic copyright 2012, American Civil Liberties Union.
Originally posted by the ACLU at https://aclu.org/reform-patriot-act.

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