

**Librarians' Security & Privacy Responsibilities
Under the USA Patriot Act and New Jersey Law**

N.J.L.A. Workshop

January 16, 2003

**New Jersey Library Confidentiality Statute,
N.J.S.A. 18A:73-43.1 to 18A:73-43.3**

1. For the purposes of this act:
 - a. "Library" means a library maintained by any State or local governmental agency, school, college, or industrial, commercial or other special group, association or agency, whether public or private.
 - b. "Library record" means any document or record, however maintained, the primary purpose of which is to provide for control of the circulation or other public use of library materials.
2. Library records which contain the names or other personally identifying details regarding the users of libraries are confidential and shall not be disclosed except in the following circumstances:
 - a. The records are necessary for the proper operation of the library;
 - b. Disclosure is requested by the user; or
 - c. Disclosure is required pursuant to a subpoena [sic] issued by a court or court order.
3. The State Librarian shall adopt pursuant to section 18 of P.L. 1969, c. 158 (C. 18A:73-33) and the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1) et seq.) rules and regulations necessary to effectuate the purposes of this act.

USA Patriot Act

Section 215, the library records provision, amends the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. § 1861 ("FISA").

You can find the legislation, H.R. 3162, at <http://thomas.loc.gov/>

For a section-by-section summary of the USA Patriot Act, prepared by the American Law Division, Congressional Research Service, see <http://fpc.state.gov/documents/organization/7952.pdf>

First Amendment:

Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Fourth Amendment:

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 an Oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

Tattered Cover, Inc. v. City of Thornton

44 P.3d 1044 (Colo. 2002)

Useful Web Sites

FBI Guidelines - www.usdoj.gov/olp

FBI in Your Library - www.ala.org/alaorg/oif/fbiinyourlibrary.html

Center for Democracy & Technology Guide to the FBI Guidelines
www.cdt.org/wiretap/020626guidelines.shtml

NJLA Guidelines to Assist Libraries with Requests for Confidential Library Records
www.njla.org/statements/confoflib.html

Analyses of Federal Law:
www.llrx.com/features/libraryrecords.htm
<http://libraryjournal.reviewsnews.com>

Analyses of New Jersey Law
www.graysonbarber.com

Privacy: An Interpretation of the Library Bill of Rights
www.ala.org/cgi-bin/reghtml.cgi