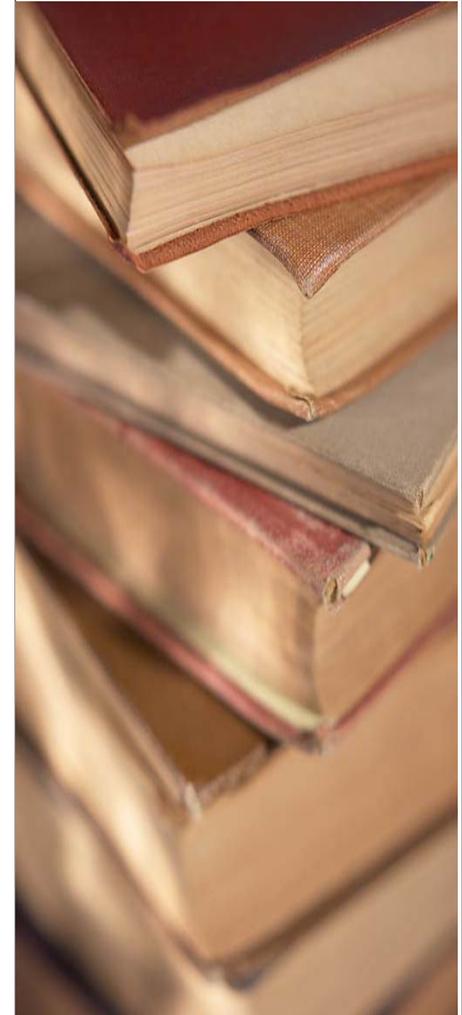


## State Policies:

ALABAMA	§36-12-40, 41-8-9 to 41-8--10
ALASKA	§09.25.140
ARIZONA	§41-1354
ARKANSA	§13-2-701 to 13-2-706
CALIFORNIA	Govt. §6267, 6254(j)
COLORADO	§24-90-119, 24-72-2043(a)(VII)
CONNECTICUT	§11-25(b)
DELAWARE	29 §10002(d)(12)
D.C.	§37-106.2
FLORIDA	§257.261
GEORGIA	§24-9-46
IDAHO	§9-340E
ILLINOIS	Chpt 75, §70/1-70/2
INDIANA	§5-14-3-4(b)(16)
IOWA	§22.7 (13)
KANSAS	§45-221(a)(23)
LOUISIANA	§44:13
MAINE	Title 27 §121
MARYLAND	ED §23-107
MASSACHUSETTS	Chpt 78 §7
MICHIGAN	§15.1795(1)-(4)
MINNESOTA	§13.40(2)
MISSISSIPPI	§39-3-365
MISSOURI	§182.817
MONTANA	§22-1-1101 to 22-1-1103, 22-1-1111
NEBRASKA	§84-712.05(10)
NEVADA	§239.013
NEW HAMPSHIRE	Chpt 201-D:11
NEW JERSEY	§18A:73-43.1 to 43.2
NEW MEXICO	§18-9-1 to 18-9-5
NEW YORK	CPLR §4509
N. CAROLINA	§125-18 to 125-19
NORTH DAKOTA	§40-38-12
OKLAHOMA	Title 65 §1-105
OREGON	§192.501(10)
PENNSYLVANIA	Title 24 §4428
RHODE ISLAND	§38-2-2(d)(21)
S. CAROLINA	§30-4-20(c), §60-4-10
SOUTH DAKOTA	§14-2-51
TENNESSEE	§10-8-102
TEXAS	Gov't §552.124
UTAH	§63-2-302
VERMONT	Title 1, §317(b)(19)
VIRGIN ISLANDS	Title 3 §28c
VIRGINIA	§2.2-3705.7(3)
WASHINGTON	§42.17.310(1)(l)
WEST VIRGINIA	§10-1-22
WISCONSIN	§43.30
WYOMING	§16-4-203(d)(ix)

## CONFIDENTIALITY OF LIBRARY RECORDS



**Appellate Division Law Library**

	<b>Appellate Division Law Library</b>
M. Dolores Denman Courthouse 50 East Avenue, Suite 100 Rochester, NY 14604	
Phone: 585-530-3250 Fax: 585-530-3270 E-mail: <a href="http://www.nycourts.gov/ad4/lib">www.nycourts.gov/ad4/lib</a>	

## BASIC PREMISE

The "right to privacy" and the "right to receive information" in libraries are considered fundamental First Amendment privileges by all librarians. This right extends to information and



ideas of all kinds--the unpopular and unfamiliar as well as the popular and known. No reader should have reason to fear that he or she might later be held accountable for having selected a work that someone else thinks improper or extremist.

Librarians believe the library, as the unique sanctuary of the widest possible spectrum of ideas, must protect its readers' right to read anything they wish, free from fear of intimidation and harassment. Protecting the confidentiality of library patrons extends to any library record that contains the names or other personally identifying details regarding users of public, private, school, college and university libraries. Information should not be disclosed except to the extent necessary for the proper operation of the library and should be disclosed only upon request or consent of the user, or pursuant to subpoena, court order or where otherwise required by statute.

Librarians feel that statutes should be broad enough to protect all library records which identify library users. It should be clear that the records of computer database searches, interlibrary loan transactions, requests for photocopies of library materials, title reserve requests, reference queries, as well as circulation records, are confidential.

## CAUSE FOR CONCERN

Six weeks after the terrorist attacks of September 11, 2001, Congress passed the *Uniting and Strengthening America By Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot)* Act of 2001, Pub. L. No. 107-56, 115 Stat. 272 (2001). The USA Patriot Act greatly expanded law enforcement surveillance and investigative powers, raising complex questions as to the confidentiality of library records.

The USA Patriot Act amended more than fifteen existing statutes including the



Foreign Intelligence Surveillance Act (FISA), the Electronic Communications Privacy Act (ECPA) and the Federal Wiretap Statute. Many of these changes have the potential to erode the confidential nature of library records. Title II of the USA Patriot Act contains the provisions for enhanced surveillance procedures regarding business (including library) records. Most dangerous to library patron confidentiality is Title II, Section 215 (codified in 50 USC § 1861) which allows a secret FISA court to order the seizure of records, without probable cause, if the records would be used for an investigation to "protect against international terrorism or clandestine intelligence activities."

Section 215 also expands the type of record that may be seized to "any tangible things...to protect against international terrorism or clandestine intelligence activities." Further, certain provisions of the Act contain gag orders, which would disallow a librarian from telling anyone, including the library patron, that the librarian has received a National Security Letter requesting library records.

To date, the fate of library record confidentiality is still unclear. Currently, there are cases challenging portions of the USA Patriot Act, including the gag order provision, and a series of Congressional hearings on the USA Patriot Act have begun in the House and Senate.