

Frequently Asked Questions: USA PATRIOT Act

What is the USA PATRIOT Act?

On October 25, 2001, Congress passed the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act" (USA PATRIOT Act.) This law broadly expands the powers of federal law enforcement agencies investigating cases involving foreign intelligence and international terrorism.

How does it affect public libraries?

Public libraries are required by state law to maintain the confidentiality of patron records. The only legal release of patron information is by the serving of a court order. The USA PATRIOT Act does not change this. It changes two things: lowers the standard for the issuing of a court order from probable cause to suspicion, which does not affect libraries, but makes it easier for an official to obtain a court order and a "gag" order is imposed which makes it illegal to tell anyone of the court order except your attorney.

What should a library do if presented with a court order?

Your library should have a procedure in place for handling the presentation of a court order. It should designate the person at the library who can receive the court order, either the board president or the director. Any court order should be reviewed by a lawyer before complying. All staff should be trained in this procedure.

If a court ordered request for information is presented to your library, library staff should:

- Staff should ask for identification of the agent or officer
- Staff should direct the agent or officer to the person designated to receive the order
- Director or designated person should contact library counsel
- Director or designated person should only provide the records identified in the court order

What types of court orders can I expect?

You can be served with a subpoena or a search warrant. In both cases you should contact your attorney and only provide information requested. A search warrant is executable immediately while a subpoena allows time to respond.

Any order issued under the USA PATRIOT Act includes a "gag" order. This means you cannot legally inform anyone, except your counsel, of this search.

What information could a library produce from the circulation system?

From the patron record:

- What a patron currently has checked out

- Reading History if the patron has selected that option
- What a patron has requested through the request a title system
- A history of titles with fines and bills owed and paid. This is currently kept for six months. We can determine how long to keep this information
- What a patron has requested on the Regional Interlibrary Loan System.

From the item record:

- Who currently has the item checked out
- Who the last patron to have the item checked out

What other information could be produced?

From public workstations or logins:

- If you use sign in sheets with people names, information about who used the computer can be found. Mid-Hudson Library System recommends libraries do not keep names on sign in sheets, or cover the name over once someone uses the computer, and that you destroy all sign in sheets at the end of the day.
- What has been accessed on the computer. Most of what is done on a computer leaves traces in history files, caches and cookies so that someone could see what sites the computer has accessed. Libraries could daily clear this information. If you do not have the information, you cannot provide it.

In house files:

- Any report that your library has printed or downloaded, such as overdues, unpaid bills. You should review your files to determine what is being retained. Only retain information that is necessary.

What about records from Mid-Hudson Library System or other libraries?

The Mid-Hudson Library System keeps a backup tape for one week, so if a court order was issued to Mid-Hudson Library System we could produce a week's earlier version of the same data. Under our automation agreements, a library only should produce records of a patron who has designated that library as the home library or materials that the library owns. If a court order is requesting information that your library does not own, you could, with the advice of counsel, challenge the court order.

Are there other privacy concerns?

Libraries collect and share a great deal of public information--books, databases, etc. We also collect a significant amount of private information--patrons' names and addresses, phone numbers, etc, Know who has them and how they are stored. It is important that the private information be safeguarded with as much care if not more than the public information. People entrust us with this information for specific purposes, and we must not violate their trust. Know what information you keep; destroy the rest.

