

**Chicago Association of Law Libraries
PUBLIC AFFAIRS COMMITTEE
Annual Report/Update – June 2004**

Walter Baumann
Joanne Kiley
Margaret Schilt
Christopher Simoni
Keith Ann Stiverson
Julia Wentz – Liaison

Please consider chairing the Public Affairs Committee for 2004-05!

Spencer Simons, Chair of the Public Affairs Committee, left Chicago in December 2003 to take the position of Director of the Library at the University of Houston Law Center. The Board is presently looking for a new Chair and hopes that an interested CALL member will take the job. The CALL Public Affairs Committee has made a number of contributions to AALL's government affairs work during the past several years. Please volunteer!

The Committee met several times during the year, and each member had a variety of issues to track. Earlier developments regarding the issues are covered in reports you will find on the CALL Web site. The latest developments on issues the Committee tracked this year are given below:

The Database and Collections of Information Misappropriation Act, H.R. 3261, was approved by the House Judiciary Committee in January 2004. Due to overlapping jurisdiction, the bill also was considered by the House Energy and Commerce Committee, which unfavorably reported out H.R. 3261 in March 2004. The latter committee then favorably reported out H.R. 3872, which is a more narrowly focused bill that has the support of AALL and other national library associations as a reasonable alternative.

Digital Media Consumers' Rights Act of 2003, H.R. 107 (the "Boucher Bill") proposes changes to the Digital Millennium Copyright Act (DMCA) and reaffirms fair use in the digital environment. A May 12 hearing on the bill was described as "one of the most significant and balanced copyright hearings in memory" by one who attended. Speakers at the hearing included Larry Lessig, a Stanford professor, Jack Valenti, president and CEO of the Motion Picture Ass'n of America, and Miriam Nisbet of ALA's Washington Office. Unfortunately, the bill is not expected to pass during this Congress. Federal appropriations bills and the coming election are expected to monopolize lawmakers' attention during the last months of the session.

GPO Oversight; Future of the FDLP: AALL President Janis Johnston testified on behalf of five national library associations at the Government Printing Office Oversight Hearing on April 28. In her remarks, Janis asked the Congress to reaffirm basic principles of permanent public access to government information and asked GPO to develop incentives to help the Federal Depository Library Program (FDLP) remain robust in the 21st Century. Janis reminded the audience of the importance of the government's

commitment to authenticity, permanent public access, and preservation of electronic government information. She also noted the importance of the partnership between GPO and depository libraries: libraries go to great expense to make government information available to the public and to assist GPO's mission. The full text of the statement is available on the Washington Affairs Office home page, which is accessible from the AALL Web site.

Public Printer Bruce James has mentioned the possibility of entering into partnerships with commercial publishers, creating concern among librarians that GPO will stop distributing important government publications at no or low cost to consumers.

Elimination of the 5-year retention period for Government documents in selective depository libraries is being considered. The requirement would be replaced by regulations issued by the Superintendent of Documents in consultation with the library community.

The draft plan for GPO's "collection of last resort" is available at http://www.access.gpo.gov/su_docs/fdlp/pubs/clar.pdf This initiative would provide GPO with acceptable archival digital masters for permanent preservation as well as providing the basis for the development of a wide variety of derivative access products. The possibility exists that libraries who are collecting materials in the "last resort" list could discontinue those titles, while being assured that permanent masters will be available.

The Superintendent of Documents, Judith C. Russell, convened a meeting on March 16, 2004, to discuss the future of the GPO Sales Program. The objective of the meeting was to get advice and feedback on how to build a sustainable economic model for the program that will generate \$30-\$50 million in additional revenue for GPO annually. A summary of the meeting is available at <http://www.gpoaccess.gov/about/reports/econmodel.pdf> Steve Hinckley, Law Librarian at the University of South Carolina Law School, was on the panel.

Illinois County Law Library Fee Increase

HB 4370, which would increase the County Law Library fee to \$13 (from \$10) passed both chambers on May 5, 2004.

UCITA

The Uniform Computer Information Transactions Act, a proposed uniform law that validates the enforceability of shrink-wrap and click-wrap licenses, was recently introduced in the Virgin Islands. The library associations have been in touch with the Attorney General there, who signed on to an anti-UCITA letter with state attorneys general more than a year ago. Anti-UCITA 'bomb shelter' legislation passed in both Massachusetts and Louisiana. An ALA report noted that "troublesome UCITA-friendly amendments" to Articles 1 and 2 of the Uniform Commercial Code are expected this year.

USA Patriot Act

The concern and opposition to the USA PATRIOT Act and any extension of it expressed by many voices has been helpful in slowing the legislative initiative of those favoring the expansion of law enforcement powers for domestic surveillance and searches and seizures. In addition, the political pressure of foreign affairs and domestic issues has turned public focus away from the issues raised by the PATRIOT Act, resulting in a period of relative quiet for the past seven months. The AALL Executive Board adopted the following resolution concerning the Patriot Act on April 3, 2004:

**Resolution adopted by American Association of Law Libraries
on the USA PATRIOT Act and Related Measures
That Infringe on the Rights of Library Users**

WHEREAS,

the American Association of Law Libraries holds that serving the legal information needs of law firms, corporations, academic and governmental institutions, and the general public is a noble calling and that only when individuals have ready access to legal information can they participate fully in the affairs of their government; and

WHEREAS,

protecting the privacy of library users and confidentiality of library use promotes the free and open exchange of knowledge and ideas necessary for making the ideal of democracy a reality; and

WHEREAS,

the American Association of Law Libraries upholds a duty to its clientele to develop service policies that respect confidentiality and privacy; and

WHEREAS,

certain provisions of the USA PATRIOT Act, the revised Attorney General Guidelines to the Federal Bureau of Investigation, and other measures increase the likelihood that the activities of library users, including their use of computers to browse the Web or access email, may be under government surveillance without their knowledge or consent; and

WHEREAS,

increased surveillance of these activities threatens civil rights and liberties guaranteed under the Constitution; now, therefore, be it

RESOLVED,

that the American Association of Law Libraries strongly opposes those provisions of the USA PATRIOT Act and of any other current or future legislation, regulations, or guidelines that erode the privacy and confidentiality of library users; and, be it further

RESOLVED,

that the American Association of Law Libraries opposes any legislation, regulations or guidelines that have the effect of suppressing the free and open exchange of ideas and information; and, be it further

RESOLVED,

that the American Association of Law Libraries urges Congress to provide effective oversight of expanding surveillance on library users and urges Congress and the President to amend provisions of the USA Patriot Act and other legislation, regulations, and guidelines that threaten the rights of inquiry and free expression; and, be it further

RESOLVED,

that the American Association of Law Libraries joins other library organizations in resolving to educate library users about threats to privacy and confidentiality and collaborates with others, as appropriate, to oppose these threats to civil liberties; and, be it further

RESOLVED,

that the American Association of Law Libraries transmit a copy of this resolution to the President of the United States, to the Attorney General of the United States, to the Secretary of the Department of Homeland Security, to the Leadership of both Houses of Congress, to the library community, and to others as appropriate.

Muslim Community Association of Ann Arbor et al v John Ashcroft et al, U.S. District Court for the E. D. Mich. S.D. Case No. 03-72913.

- This is the first suit directly challenging the constitutionality of the USA PATRIOT Act. A Motion to Dismiss was heard in December, 2003 and taken under advisement.

New developments

- The Security and Freedom Ensured Act of 2003 (SAFE Act.), S. 1709, was introduced in the Senate on October 10, 2003 and referred to the Committee on the Judiciary. The Act would amend the USA PATRIOT Act to place limitations on the use of surveillance and the issuance of search warrants. The portions of the bill of most interest to the library community are described in the Congressional Research Service Bill Digest as follows:

- Amends FISA to require, with respect to access by the Federal Bureau of Investigation to business records for foreign intelligence and international terrorism investigations, that there be specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent thereof.

- Provides that libraries shall not be treated as wire or electronic communication service providers under provisions granting counterintelligence access to provider subscriber information, toll billing records information, or electronic communication transactional records.

The only activity this session is a recent statement of support and a request to schedule a hearing by the Senate Committee on the Judiciary made by Senator Durbin of Illinois on April 7, 2004, which may be found at 150 Cong Rec S 3898.

- The proposed Domestic Security Enhancement Act of 2003 (so-called PATRIOT II): This draft legislation has not been introduced as such, although pieces of it have been included in other legislation that is currently pending.

- The Anti-Terrorism Intelligence Tools Improvement Act of 2004: H.R. 3179 was introduced September 25, 2003 by Rep. Sensenbrenner of Wisconsin. This bill contains several of the provisions of the Justice Department's draft of PATRIOT II; none of the provisions relate directly to libraries. However, the bill does provide criminal sanctions for violation of the nondisclosure provisions applicable to certain financial institutions that may receive a request for business records under a "national security letter." A good statement of the issues presented by the bill can be found in the testimony presented at a hearing before the House Committee of the Judiciary, Subcommittee for Crime, Terrorism and Homeland Security, held May 18, 2004. Statements by Daniel J. Bryant, Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice, in favor of the bill, and by former Member of Congress Bob Barr, opposed to it, can be found on LexisNexis and LexisNexis Congressional databases.

(Submitted by Keith Ann Stiverson, who is responsible for all errors and/or omissions.)

[Home](#) || [About CALL](#) || [Calendar](#) || [CALL Forms](#) || [CALL Libraries](#) || [Careers](#) || [Committees](#) || [Discuss Forum](#)
||
[Legal Resources](#) || [Member Articles](#) || [Membership](#) || [Members Only](#) || [News](#) || [Officers](#) || [Publications](#) ||
[Related Organizations](#)