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LIBRARY LAW E-NOTE

CONFIDENTIALITY OF LIBRARY RECORDS

Several sections of the USA Freedom Act which replaced the Patriot Act in 2015 may implicate information generated and/or retained by libraries, particularly in terms of law enforcement access to library records and the use of library facilities for surveillance and wiretapping purposes. For example, the federal government has broad power under the Freedom Act to obtain records and information in many different ways. Physical searches and telecommunication surveillance are both authorized under the Patriot Act, Freedom Act, and the Foreign Intelligence Surveillance Act. Telecommunication surveillance includes wiretapping phones, accessing voicemail, intercepting emails and text messages, and wiretapping VoIP calls. Under certain circumstances, the FBI can force libraries to hand over information on their patrons. Roving wiretaps, sneak-and-peak warrants, national security letters, and lone wolf surveillance were essentially left untouched by the Freedom Act. Also, there are strict “gag” rules that may apply to the library and its employees when interacting with the FBI. A library should seriously consider adopting a policy/protocol to address these matters to the extent it does not have one in place.

For any questions or comments you might have regarding this newsletter, please feel free to contact:

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