

# Effects of the USA PATRIOT Act on Wyoming Libraries, Library Professionals, and Nonprofessionals

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One unexpected outcome of the terrorist attacks of September 11, 2001, was the creation of the USA PATRIOT (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) Act, and its controversial effects on libraries across America. Many within the library field have long felt that the PATRIOT Act oversteps its bounds in regard to information requested from libraries. These individuals question how libraries and their staff can prepare their institutions and their patrons to comply with its implications. Librarians, long on the forefront in the fight to keep information free to the public while protecting the privacy of patrons, are particularly concerned with Section 215 of the PATRIOT Act. For example, McFall and Schneider, of the California Library Association's Intellectual Freedom Committee, opined that

the USA PATRIOT Act vastly increases the power of federal agencies to spy on routine public activities, primarily by relaxing the requirements for subpoenas and court orders, expanding the ability to search and seize, and making it easier for federal agents to gather information and compel the disclosure of sensitive records.<sup>1</sup>

Martins and Martins point out that the American Library Association (ALA) has come out strongly against inappropriate government access to library loan or computer usage information by issuing a resolution against the PATRIOT Act.<sup>2</sup> ALA also offers information through its organization about how libraries can respond to requests for information under the act.<sup>3</sup>

The purpose of this study is to determine the impact of the PATRIOT Act on the work of librarians in the rural, mountain state of Wyoming and to understand their responses to potential and actual requirements of the act by gathering information from individuals working in the field on issues such as:

- Librarians' awareness of the PATRIOT Act
- The handling of sensitive patron information (such as phone numbers, database searches results, interlibrary loan records)
- Staff training for law enforcement and government information request procedures
- Targeted training for the mechanics of the PATRIOT Act itself
- How questions and concerns from patrons have been addressed

This study will help increase general knowledge of the PATRIOT Act and add useful information to other studies in the field. Moreover, this research may assist libraries and library professionals located in rural states, such as Wyoming, in applying or testing internal policies and procedures designed to address the PATRIOT Act.

It is important to consider the effect of this national legislation on sparsely populated and rural areas such as Wyoming, which may help put the PATRIOT Act into a local perspective. What is unique about the impact of the PATRIOT Act on Wyoming's small library system is that there exists an opportunity for both less and greater attention placed on issues raised by this legislation. For some institutions, there may be a sense that "it could never happen here" due to the smaller size of collections, fewer loan transactions, less patron traffic at public computer portals, and so on, as opposed to public library systems in large cities. For other institutions, there may be a greater emphasis on ensuring that policies and procedures are in place to protect patron privacy and intellectual freedom from aspects of the PATRIOT Act. For example, it may be more manageable logistically to implement changes such as security software updates, deleting records manually, and training of library staff in an institution with a collection less than 50,000 pieces than at a larger system due to sheer collection size. Thus, the results of this study may also help

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determine where attitudes toward the PATRIOT Act tend to fall among Wyoming librarians, in comparison with more densely populated states with larger library systems.

## Legal Background

The PATRIOT Act and Section 215 was actually an amendment of existing federal statutes involving foreign surveillance, money laundering and banking, and immigration laws. Significantly, the PATRIOT Act also amends the Foreign Intelligence Surveillance Act (FISA) of 1978, which outlines procedures for requesting judicial authorization for electronic surveillance and physical search of persons engaged in espionage or international terrorism against the United States on behalf of a foreign power. The most salient differences between FISA and the PATRIOT Act are mainly the latter's inclusion of groups that are not specifically backed financially or politically by a foreign government, and the fact that much of today's communication technologies (such as fax machines, e-mail, cell phones, and the Internet) did not exist when FISA was first drafted.

There are two other significant differences involving FISA and the PATRIOT Act. First, as Pike points out, FISA originally permitted the United States government to seek special court orders for wiretaps and searches of private records after providing evidence that the sole purpose of the request involved surveillance for foreign intelligence. Under the PATRIOT Act, this aspect of FISA is now more lenient and needs to show only that foreign intelligence is at least "one significant purpose among many."<sup>4</sup> Second, the PATRIOT Act expands the information classifications for which data can be requested; under the old FISA standards, the United States government could seek only limited types of records, mainly those such as car rental, storage unit, and hotel accommodations.<sup>5</sup>

Interestingly, two years before adoption of the PATRIOT Act, an incident occurred in 1999 concerning records currently covered under Section 215. In *Tattered Cover, Inc. v. City of Thornton*, records were subpoenaed from a bookstore chain regarding reading materials purchased by a customer who was a suspect in a local drug ring.<sup>6</sup> However, the district attorney who issued the warrant was uncomfortable with the First Amendment implications of the request, and the matter ended up in the Colorado Supreme Court. Ultimately, the court found that both the Colorado and United States Constitutions maintain that there is a constitutional right to "receive ideas and information, and that the citizen is entitled to seek out or reject certain ideas or influences without Government interference or control."<sup>7</sup> This is one instance that demonstrates the fine line lawmakers and peacekeepers must walk concerning intellectual liberties and laws that attempt to circumvent the First and Fourth Amendments. This instance also helped set the stage for the implementation of the PATRIOT Act.

As a direct response to the attacks on Washington, D.C., and New York City on September 11, 2001, the resolution for the PATRIOT Act was drafted on October 21 of that year. By October 26, the resolution had passed both houses and was signed into law by President George W. Bush. The law was ostensibly designed to give federal officials greater authority to track and intercept communications, both for law enforcement and foreign intelligence-gathering purposes. The PATRIOT Act contains ten titles and some forty sections, which cover issues such as foreign money laundering abatement, trap and trace devices, and the addition of a new crime category under Section 802, "domestic terrorism."<sup>8</sup>

The section of the PATRIOT Act that has plagued libraries is Section 215 (located under Title II, "Enhanced Surveillance Procedures"), the so-called "library provision," which includes the authorization for the Federal Bureau of Investigation (FBI) to order any person or entity to turn over things such as "books, records, papers, documents, and other items,"<sup>9</sup> with the proviso that the FBI must specify that the order pertains to "an investigation to protect against international terrorism or clandestine intelligence activities."<sup>10</sup>

The controversy seems to be divided into two camps, with the PATRIOT Act and Section 215 addressing issues of patron privacy and civil liberties versus the United States' national security. The American Civil Liberties Union (ACLU) published several arguments on its website in response to the implementation of the PATRIOT Act and in particular, Section 215, as a way of helping the general public navigate through the terminology. For example, the ACLU contended that under the Act the FBI does not need to show probable cause or reasonable grounds to believe that the subject of the requested data is engaged in criminal enterprise.<sup>11</sup> Further, the ACLU argued that the FBI does not require any suspicion that the subject of the investigation is "a foreign power or agent of a foreign power," and can investigate a U.S. citizen based in part on activities covered under First Amendment rights. In turn, the view of the ACLU is that the FBI can also investigate non-U.S. citizens based "solely on their exercise of First Amendment rights."<sup>12</sup> Finally, under Section 215 a proviso states that recipients of a request for information are under a gag order, and "those served with Section 215 orders are prohibited from disclosing the fact to anyone else." Although an update to the PATRIOT Act in March 2006 now allows for appeals to a gag order one year after issuance, the gag order policy still remains in effect until a challenge is resolved.<sup>13</sup>

In turn, the United States government has presented the counterpoint to the PATRIOT Act debate. According to an extensive posting on the United States Department of Justice (DOJ) website titled "Preserving Life and Liberty," there are several fallacies—"myths"—about the legislation, and in particular, Section 215.<sup>14</sup> For example, the DOJ asserted that the PATRIOT Act expressly protects First

Amendment rights, stating that the FBI cannot conduct investigations of a U.S. citizen *exclusively* on the basis of engaging in protected activities. Also, those who are investigating terrorist activities have no interest “in the library habits of ordinary Americans.”<sup>15</sup> Further, Section 215 still requires FBI agents to get a court order (which still does not address the fact that warrants require probable cause, as outlined in the Fourth Amendment); in this instance, however, the DOJ made the distinction that FISA orders may be confused with grand jury subpoenas, which are requested without court supervision. Additionally, Section 215 has a narrow scope (in other words, it cannot be used to investigate “ordinary crimes”), and there are provisions for congressional oversight, so that every six months the Attorney General must inform Congress on how Section 215 has been implemented.<sup>16</sup>

ALA has long stated that librarians have a role as defenders of intellectual freedom;<sup>17</sup> indeed, as the ALA’s Code of Ethics plainly states, “[we] protect each library user’s right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted” and “[we] uphold the principles of intellectual freedom and resist all efforts to censor library resources.”<sup>18</sup> Thus, American librarians walk a fine line between their legal obligations to law enforcement and their professional responsibilities to their patrons.

The dilemmas now raised by the PATRIOT Act are not the first time that librarians have been put in this position. For example, it could be argued that one of the biggest challenges to librarians was the FBI’s Library Awareness Program, which was implemented from 1973 until the late 1980s under the guise of what turned out to be a bogus executive order. The program had two specific goals: first, to limit access to unclassified scientific information by foreign nationals (particularly those individuals with Soviet and East European ties) within American public and academic libraries; and second, to conscript librarians to report any “suspicious” library use from anyone with either a foreign name or accent.<sup>19</sup> One method used by the FBI to realize these goals included appealing to the patriotism of librarians to help “prevent the spread of sensitive but unclassified information to potential enemies.”<sup>20</sup> Another method used intimidation to coerce lower-level library employees to release information about foreign national patrons without a warrant or subpoena.<sup>21</sup> When the program received resistance from librarians (which also raised public awareness of the FBI’s tactics), it became inactive in the late 1980s.<sup>21</sup> This prior example of a government action that affected librarians of this nation provides additional emphasis on the importance of this issue.

## Survey Methods

In order to measure the effects of the PATRIOT Act on Wyoming libraries, library professionals, and non-

professionals, data was compiled by an electronically distributed survey. Data collected included standard demographics (such as age, gender, location, highest level of education, and so on) and participants’ responses to questions relating to knowledge of the Act; questions and concerns from patrons about the Act; knowledge of policies and procedures for handling sensitive patron information, and other inquiries.

A sample of Wyoming library professionals and non-professionals was drawn from a pool of 714 contacts. For this study, a library “professional” was defined as a person with a Masters of Library Science (MLS) degree, Masters of Library and Information Science (MLIS) degree, or a person in an administrative role (such as a director); a “non-professional” was defined as a non-degree-holding librarian, support staff member, or volunteer. Only adults who gave their age as 18 or older were included in the survey results. Contacts were selected from two sources: individuals with e-mail addresses listed in the print and online versions of the 2006 Wyoming Library Directory (WLD) and from the Wyoming Library Association’s (WLA) current e-mail list.

Working with a librarian from the University of Wyoming’s law school, the author developed the survey around a series of questions that would determine the following research issues:

- If the PATRIOT Act has affected the work of librarians in Wyoming, and if so, how; to what degree are Wyoming librarians aware of the PATRIOT Act?
- How do these librarians handle sensitive information (such as patron phone numbers, addresses, e-mail addresses, material searches and requests, and the like) that may be subject to disclosure under the Act?
- Whether librarians received training specifically pertaining to the Act, and if so, what kind; whether librarians received training for other types of patron information requests under other law enforcement agencies (such as local police)?
- What training methods were used for teaching staff to deal with information requests under the PATRIOT Act and other law enforcement agencies?
- What questions and concerns, if any, have librarians had to address from patrons regarding the PATRIOT Act and how were they handled?
- How many subpoenas have been issued under the PATRIOT Act and other law enforcement agencies since 2001?

Due to concerns surrounding the PATRIOT Act’s gag order, which prevents individuals from disclosing that they have been served a subpoena for information, the survey and initial proposal for the study were submitted to, reviewed, and approved by the University of Wyoming’s Institutional Review Board.

The survey was constructed by SurveyMonkey using a commercial, Web-based blind survey instrument; this ser-

vice protected the anonymity of respondents (by encrypting responses, non-collection of IP addresses, and physical security of data servers) and facilitated survey construction and collection of data. The survey consisted of a combination of questions requiring yes or no responses, questions asking for scaled or degree responses, and open-ended questions allowing for anecdotes or commentary. This survey was e-mailed to contacts within a database compiled from the WLD and the WLA. A short description of the study, along with the author's contact information and a link to the survey, was provided. An incentive prize was offered to encourage completion of the survey. Recipients were also given instructions on how to opt out of the survey, if they chose not to take it. The survey link was initially sent out in the middle of June 2006, and the first of three reminder e-mails were sent at the start of the last week of that month. The remaining reminder e-mails were sent at the beginning of the second and third weeks of July 2006, and the survey officially closed July 15, 2006.

There were 714 contacts that were sent in the initial survey, and the total number of respondents numbered 124. Thus, the initial return rate for the survey was approximately 17 percent. However, of the initial 714 contacts, 77 of these e-mail addresses were not valid; this adjusted the original contact list down to 637, resulting in a new return rate for the survey of 19 percent. (For more details on survey responses see the appendix.)

The first few questions of the survey covered age, gender, education level, whether the respondent possessed a MLS or MLIS degree, library type, county, and collection size. Of these responses, the highest percentages were as follows:

- Age: 41–65 years (79 percent)
- Gender: female (87.9 percent)
- Education level: master's or above (47.6 percent) and non-master's (62.1 percent)
- Library type: public (48.4 percent)
- County Albany (14.5 percent); Laramie (13.7 percent)
- Collection size: under 50,000 (39.5 percent)

Some inferences can be made on the basis of sample demographics. The high percentage of respondents in the age range of 41–65 years suggests that these are more senior individuals that may have seen significant changes in the field of library science, and thus have some perspective on issues across a period of time before and after the implementation of the PATRIOT Act. Second, the greater proportion of respondents indicated that they do not possess an MLS or MLIS degree or above, so it is likely that they may be support staff or non-librarian members of their library team, or that their particular institution may not require this degree. Third, that most respondents reported their library as public was expected, as there is only one four-year university in the state and only a handful of community colleges or university outreach sites. Fourth,

the percentages of the two largest reporting counties are due to the presence of the two key institutions that house many Wyoming library professionals and their staffs: the University of Wyoming (Albany), the State Library and the Wyoming Library Association (Laramie), and the sizable public library systems and school library districts they contain.

The next section of the survey dealt with characteristics of respondents' jobs, such as job titles, major responsibilities, years spent in the library field, and years in their current position. Of the responses collected, the highest frequencies were as follows:

- Job title: director (13 percent)
- Primary duties: reference (60.2 percent)
- Years employed in the library science field: 21+ (33.3 percent)
- Years at current library: 0–5 years (29.3 percent)

It should be noted that the job title section allowed for an open-ended response, and these responses were broken down into categories by the author. However, care was taken to make distinctions where possible; for instance, a children's librarian and a school librarian are not necessarily the same positions, so these were placed in separate categories.

Further, the primary duties section allowed for multiple answers, including both defined jobs and open-ended descriptions, as librarians tend to "wear many hats"—especially those in school libraries or branch libraries where there may be only one or two positions for the whole department. (Indeed, one open-ended response had a reply of "all of the above.") So, for example, out of 123 respondents, 74 answered that "reference" was a primary duty (one person skipped the question). The next highest responses were "collection development" and "administration" at 51.2 percent and 49.6 percent, respectively. Within the open-ended responses, the highest results included "programming" (3 percent), and "public relations" (3 percent).

It was interesting to note that while 33 percent of the respondents answered that they had been working in the library science field for at least 21 years, only 15.4 percent of them had been at the same library for that amount of time. By contrast, 29.3 percent of respondents had been employed at their current library for 0–5 years. This suggests that there has been some physical movement within the Wyoming library system.

## Policies, Procedures, and Training

Questions 12, 13, and 15 dealt with specific policies, procedures, and training for handling sensitive types of patron information, and who sets those policies. They allowed for multiple responses.



Question 12 queried who was responsible for policy setting. The highest frequent answer was “director” at 47.1 percent. The two next highest response percentages for survey-provided choices were for a “board of directors” (38.7 percent) and “department head” (15.1 percent). Interestingly, however, the open-ended response category had a response rate of 25.2 percent (30), of which 20 percent listed “school board” or “school district,” and another 20 percent listed “self” or “me.”

Question 13 dealt with specific policies and procedures for handling sensitive information. The most frequent answers were “avoid retaining records that are not critical to operations,” and “avoid practices and procedures that place patron information on public view,” each at 78.2 percent. The next highest percentages given were for “avoid creating unnecessary records” (61.3 percent) and “deleting or shredding library loan information” (47.1 percent). From the overall responses to this question, it appears that most Wyoming libraries are aware of the sensitive nature of these of records and take steps to either make sure security measures are in place, or avoid creating and retaining these records at all unless critical to library operations. However, the next question concerned whether staff were given training for handling sensitive information. There was a high percentage of “no” (33.6 percent) and “I don’t know” (14.3 percent) responses, suggesting that some libraries have not recognized or given a priority to ensuring that patron information is not compromised or misused, while other libraries may not be providing clearly targeted training to their staff in this area of policy.

Finally, question 15 focused on those cases where training is available by asking what types were provided for handling sensitive information. The highest percentages of responses were that information was given from “books/literature” (18.6 percent) or “other” (18.6 percent). The open-ended responses in the “other” category gave a wide range of training methods, but the most frequent answers were “staff meetings” and “one-on-one training.” Interestingly, one respondent stated that there was “personal initiative,” and another stated “We have had discussion on the types of policies that we would like to see in place. However, neither the district’s attorney nor the former superintendent was willing to engage in the discussion.” These last two responses seem to indicate that a gap exists for training opportunities.

The next two questions dealt with library patron privacy policies and the number of subpoenas or warrants received regarding patron information since 2001. Question 16 regarding whether the library has official patron privacy policies, yielded responses of “yes,” at 67.2 percent. Still, there were a significantly high percentage of “no” responses (21 percent), even though having policies is one of the standards suggested by ALA. (However, it is also possible that these libraries may feel that patron privacy is adequately covered under the First and Fourth Amendments.) There were also a number of “I don’t know”

responses (11.8 percent), possibly from individuals who do not deal with the public on a regular basis or support staff (volunteers, for example) who may not be privy to all library policies. Or, it is also possible that some library privacy policies are informal, that is, unwritten, but in common practice.

Question 17 measured if and how often patron information has been requested. Some libraries have received a combination of subpoenas and warrants under the PATRIOT Act and other government and local law enforcement agencies, but the highest frequency of responses was “none” (76.5 percent), or “I don’t know” (16.8 percent). Five respondents out of 119 answered that their institutions had received information requests, and one person responded that there had been five or more subpoenas in the last five years. Five other respondents stated that they “prefer[ed] not to answer” the question, which may suggest that they felt compelled to follow the gag order under the PATRIOT Act, or are following non-disclosure protocols under legal advice or existing institutional policy.

## **PATRIOT Act Issues**

The next questions dealt with the familiarity of Wyoming library personnel with the PATRIOT Act. Specifically, question 18 had the highest number that respondents possessed “basic knowledge” (74.8 percent) of the Act. It is also notable that these responses dealt only with the PATRIOT Act in the broadest of terms, that is, respondents were not asked what they knew specifically about Section 215, for example, or other aspects of the act. Thus, this suggests that respondents are at least aware of the PATRIOT Act as far as how it affects their jobs.

Question 19 asked respondents where or how they heard about the Act, and the most frequent response was “newspaper articles” (73.9 percent). This question also allowed for multiple answers from each respondent. Although “newspaper articles” garnered the highest percentage of responses, the number of responses were fairly evenly distributed, particularly for those categories either dealing with a type of mass media or a professional organization. Again, these respondents answered in reference to a very broad sense of the PATRIOT Act. Overall, the diversity of responses seems to indicate that there is a sufficient amount of information available to Wyoming library personnel relating to the PATRIOT Act.

The next two survey questions dealt with training for specific policies and procedures developed or implemented regarding the PATRIOT Act. Question 20 dealt with different types of policies and procedures used in handling with PATRIOT Act issues. The highest number of responses specified that policy was to “avoid creation of unnecessary records” (47.9 percent). The next highest percentage of responses addressed ensuring that library procedures are secure regarding patron records (39.3 percent), and that

staff members understand their legal responsibilities to federal and legal authorities (39.3 percent). Overall, most of the responses were congruent with respect to keeping patron records secure, and deleting whatever records are not critical for library operations. Nearly a quarter of the respondents (22.2 percent) reported that no new procedures or policies had been developed to address the unique challenges of the PATRIOT Act.

Question 21 sought to learn about any training policies and procedures specific to the PATRIOT Act. A majority (58.1 percent) of respondents answered that their institutions had provided no training. As with question 14, which also dealt with development and training for general patron privacy policies, the results indicate that many of the library personnel surveyed are not being informed about this piece of legislation. Again, these libraries may be risking the security of patron information that could be jeopardized or misused.

Question 22 allowed for multiple answers for each respondent. The results of question 22 contrasted with those of number 15, which dealt with available training materials for general privacy issues training. Not only is the number of respondents that reported “no training provided” much higher (59 percent) with regard to the PATRIOT Act, but response rates were also markedly lower compared to question 15 responses. Several factors may be in effect, for example, a lack of official training materials and methods for dealing with the PATRIOT Act; lack of time for training on the part of some of the reporting institutions; or, as one respondent pointed out, not all departments may be required to do any training because of the nature of their job descriptions or duties.

In question 23, respondents were queried about concerns that patrons may have posed to them or their institutions about privacy of information under the PATRIOT Act, and to choose as many answers as applied from a list of sample questions. The highest percentage of responses was “I have not been asked any of these types of questions” (55.6 percent). Overall, the next highest percentages addressed how long libraries keep check out records on file after books are returned (29.9 percent); how libraries protect the confidentiality of checkout records or website visits (25.6 percent); and how confidential patron databases are kept (20.5 percent). The main questions of the few that patrons did ask showed concern for what the library was doing to protect sensitive information, rather than about the PATRIOT Act specifically. Indeed, one of the open-ended comments from a respondent stated: “Patrons have expressed concerns about requiring their SSN (Social Security Number) for certain transactions, and the library has switched to other authentication means. Questions I have had relate more to identity theft than to the PATRIOT Act.”

Question 24, on the availability of training materials, asked respondents about how many subpoenas and warrants for patron records specifically under the PATRIOT

Act either they or their institution had received since 2001. The most frequent response to the number of PATRIOT Act subpoenas or warrants received was “none” (76.1 percent). This question was perhaps the most important, and possibly the most risky to answer. Under the gag order of Section 215, recipients of these subpoenas or warrants are not allowed to disclose any details, including whether one was received at all. Although the greatest percentage of respondents stated that they had not received any of these types of information requests, there were three respondents that said they or their institution had received one to three subpoenas or warrants under the PATRIOT Act. Seven skipped this question entirely, and an additional three respondents stated that they would “prefer not to answer.” While this does not imply an affirmative answer to the question, neither does it imply a “no” answer. Nearly 19 percent also responded that they did not know if any of these information requests had been received.

Finally, responses to question 25 were open-ended and covered a variety of issues, such as confidentiality and right to privacy; policies for public computer usage; outdated policies concerning accessibility of patron information; record retention, and so on. The greatest percentage of responses pertained to either the reception of subpoenas and warrants (under the PATRIOT Act or under other law enforcement agencies) or the issue of keeping patron information private.

## Conclusions

Librarians must sometimes walk a tightrope between what is best for the patrons they serve, and the legal obligations with which they must comply. Section 215 of the PATRIOT Act, while ostensibly in place to help protect American national security, may also be having an effect on our nation’s libraries—whether they are public, academic, or special libraries (such as those in private schools, prisons, and institutional archives). From the data collected in this study, the effect of the PATRIOT Act has been felt even in remote and rural Wyoming libraries. As long as the act remains the law, incidents will occur. For this reason, it appears that there is a need for these libraries, as well as those in other rural areas, to be prepared to meet these demands.

The purpose of the study was to answer several key questions to determine the effect, if any, that the PATRIOT Act has had on Wyoming libraries. Knowledge of the PATRIOT Act exists among Wyoming library personnel, so that the vast majority has at least a working knowledge of the parts of the PATRIOT Act that may affect their jobs or the institutions. This finding is supported by responses given that indicate many have gleaned information from professional literature and major library association initiatives. Still, this contrasts with follow-up questions regarding training methods and PATRIOT Act-driven policy and

procedure implementations, so it can be inferred that while information is available, little has been done to train personnel in how to deal with this legislation at the local level. The question remains as to why more training in this area has not been done and if this will change in the future.

However, Wyoming librarians get high marks for responses dealing with how they are handling patrons' sensitive information and how they are training their staff to make sure these protocols are upheld. Many library staff have sensitive information policies in place and are using a wide variety of sources to reinforce them. However, because 33.6 percent responded "no" to whether training for these policies has been accomplished, it may be that merely having policies is not enough; follow-up training can ensure that they are obeyed.

The high number of negative responses regarding concerns set forth by library patrons regarding matters of privacy and the PATRIOT Act is probably not surprising. Possible reasons may be that there is a sense that these types of requests are not happening "in our own backyard," or, perhaps Wyoming librarians are simply working in an environment that is less politically receptive to civil liberties issues.<sup>23</sup> Interestingly, though, it should be noted that these same patrons seem to be aware and concerned about the possibility of identity theft or other misuse of their library records information, and have made their concerns known to their local libraries.

At least five PATRIOT Act subpoenas and warrants have been issued since the Act's inception in 2001 (and since this study was completed, there have only been minor challenges to intellectual freedom in Wyoming as reported to ALA).<sup>24</sup> This seems to indicate that this legislation, controversial as it is, has been implemented. This is a key point because one of the arguments surrounding this Act (as with many pieces of legislation relating to local and national security) has been that there has only been the potential for its use, and due to Section 215's gag order it has been difficult to gauge any documented actions surrounding it. The data suggests that the "potential" use of the PATRIOT Act in Wyoming libraries has been realized. And since the reauthorization of the PATRIOT Act and subsequent changes made to Section 215 in March 2006 that allow for challenges to gag orders, time will tell if and when more subpoenas have been used if Wyoming libraries choose to challenge such requests.<sup>25</sup>

The data in this study suggests that these Wyoming libraries and their staff would be well served to take a closer look at their policies in the area of patron privacy, and what to do in the event of the issuance of a PATRIOT Act subpoena for patron records. Lack of training also seems to be a critical issue for these institutions, possibly the result of a lack of resources. One idea might be the development of a database of free resources that could be shared among libraries statewide. This could provide a way for smaller libraries to implement new policies or update old ones by using existing library policies (from

a neighboring county or a community college library, for example) as models. Also, a system such as this could serve as a storehouse for free materials (such as signage, general legal guidelines, checklists for security of data, activities to facilitate discussions, and the like) for training or offer support to libraries with scarce resources for training.

Without a doubt, Section 215 of the PATRIOT Act has had an effect on Wyoming libraries. Many (but not enough) libraries have policies in place and have done training on how to implement them. That subpoenas have been issued under this legislation, even a small number, should give pause to Wyoming librarians in all institutions about their preparedness to respond to these requests. The data in this study suggests that the most effective course Wyoming libraries could take is to communicate with each other and look to local associations, such as the WLA, and to national organizations, such as ALA, for guidelines and support on dealing with challenges to intellectual freedom. It is hoped that more data will provide the impetus for policy changes and training in all types of information requests and protection of patron privacy, not only in Wyoming, but also in other rural states, and to further study the impact of government legislation on libraries.

## References and Notes

1. Mairi McFall and Karen Schneider, "The USA PATRIOT Act, and What You Can Do," California Library Association, [www.cla-net.org/resources/articles/us\\_patriot\\_act.php](http://www.cla-net.org/resources/articles/us_patriot_act.php) (accessed May 1, 2006).
2. Christine Martins and Sophia Martins, "The Impact of the USA PATRIOT Act on Records Management," *The Information Management Journal* (May/June 2005): 52-58.
3. American Library Association Committee on Legislation, "Resolution on the USA Patriot Act and Related Measures That Infringe on the Rights of Library Users," American Library Association, [www.ala.org/Template.cfm?Section=ifresolutions&Template=/ContentManagement/ContentDisplay.cfm&ContentID=11891](http://www.ala.org/Template.cfm?Section=ifresolutions&Template=/ContentManagement/ContentDisplay.cfm&ContentID=11891) (accessed May 1, 2006).
4. George Pike, "History Repeated with the USA PATRIOT Act," *Information Today* 19, no. 11 (Dec. 2003), 19-21.
5. *Ibid.*, 21.
6. *Ibid.*
7. Susan Nevelow Mart, "Protecting the Lady from Toledo: Post-USA PATRIOT Act Electronic Surveillance at the Library," *Law Library Journal* 96, no. 3 (2004), 471.
8. 107th Congress, "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)," (HR 3162, 2001).
9. *Ibid.*
10. American Civil Liberties Union, "Section 215 FAQ," October 24, 2002, [www.aclu.org/privacy/spying/15423res20021024.html](http://www.aclu.org/privacy/spying/15423res20021024.html) (accessed Aug. 4, 2006).
11. *Ibid.*
12. *Ibid.*
13. *Ibid.*
14. U.S. Department of Justice, "Preserving Life and Liberty," [www.lifeandliberty.gov/subs/u\\_myths.htm](http://www.lifeandliberty.gov/subs/u_myths.htm) (accessed June 1, 2006).

15. Ibid.
16. Ibid.
17. American Library Association Council, "Our Association," [www.ala.org/ala/ourassociation/aboutala/governance/resources/policymanual.313.pfg](http://www.ala.org/ala/ourassociation/aboutala/governance/resources/policymanual.313.pfg) (accessed May 1, 2006).
18. American Library Association Council, "Code of Ethics for the American Library Association," June 28, 1995, [www.ala.org/ala/oif/statementspols/codeofethics/codeethics.htm](http://www.ala.org/ala/oif/statementspols/codeofethics/codeethics.htm) (accessed July 1, 2006).
19. Herbert Foerstel, "Secrecy in Science: Exploring University, Industrial, and Government Relationships," remarks delivered at MIT, Cambridge, Mass., March 29, 1999, [www.aaas.org/spp/secrecy/Presents/foerstel.htm](http://www.aaas.org/spp/secrecy/Presents/foerstel.htm) (accessed Nov. 4, 2006).
20. Ibid.
21. Ibid.
22. Robin Rice, "The PATRIOT Act and American Libraries," *Information for Social Change*, <http://libr.org/isc/articles/16-Rice.html> (accessed July 15, 2006).
23. American Library Association, *Office*, [www.ala.org/ala/washoff/woisues/civilliberties/theusapatriotact](http://www.ala.org/ala/washoff/woisues/civilliberties/theusapatriotact) (accessed Aug. 10, 2006).
24. E-mail message from Deb Adams, library director of Teton County Library and Chair of the Wyoming Library Association Intellectual Freedom Committee, April 18, 2008. Adams states that Wyoming library directors are queried twice yearly concerning any challenges to intellectual freedom that may have occurred, and cites two incidents in the past couple of years. One dealt with a patron challenge to a library's Internet policy, while the other dealt with a parent's challenge to a book appearing on a teacher's shelf.
25. Bill of Rights Defense Committee, "Provisions and Changes in the USA PATRIOT Act," [www.bordc.org/threats/legislation/reauthchanges.php](http://www.bordc.org/threats/legislation/reauthchanges.php) (accessed Apr. 30, 2008).

## Appendix. PATRIOT Act Survey Questions and Results

1. Please select the number range into which your age falls.  
*Under 18, 0 percent; 18–25, 1.6 percent; 26–40, 17.7 percent; 41–65, 79 percent; 66+, 1.6 percent*

2. What is your gender?  
*Male, 87.9 percent; female, 12.1 percent*

3. What is your highest level of education?  
*High school or less, 4.8 percent; some college, 15.3 percent; associate's, 5.3 percent; bachelor's, 24.2 percent; master's, 47.6 percent; PhD, 2.4 percent*

4. Do you have an MLS (Master of Library Science) or MLIS (Master of Library and Information Science) degree?  
*Yes, 38.7 percent; No, 62.1 percent.*

5. Please select the type of library in which you work.  
*Public, 48.4 percent; academic, 17.7 percent; school library (non-college), 16.9 percent; special library, 10.5 percent; other (please specify), 6.5 percent*

Open-ended responses:

*medical; tribal college; hospital; state library; library in an institution; public and school library; hospital library; prefer not to say*

6. In what county is your library located?  
*Albany, 14.5 percent; Laramie, 13.7 percent; Fremont, 9.7 percent; other, 62.1 percent (divided over remaining twenty counties)*

7. What is the size of your library's collection (total of volumes and volume equivalents)?

*Under 50,000, 39.5 percent; 50,000–100,000, 20.2 percent; 100,001–250,000, 12.9 percent; 250,000–500,000, 5.6 percent; 500,000+, 9.7 percent; I don't know, 11.3 percent; other (please specify), 0.8 percent*

8. What is your job title?  
*Director, 13.0 percent; Media Specialist, 12.2 percent; Librarian, 10.6 percent; Branch Affiliate, 10.6 percent; Other, 53.6*

Open-ended responses:

*Access Services (1); Adult Services (4); Assistant (3); Bookmobile (1); Branch Librarian (13); Business Manager (2); Cataloging (1); Children's (3); Circulation (3); Coordinator (1); Education (4); Dean/Academic (2); Digital Initiatives (1); Director (16); Electronic Services (1); Information Services (1); Law (2); Librarian (13); Library Services (2); Library Specialist (4); Managerial (2); Media Specialist (15); Medical (2); Paraprofessional (1); Programming (3); Public Relations (3); Publications (1); Reference (10); School Librarian (3); Tech Services (3)*

9. Which of the following best represents the primary responsibilities of your position? Select all that apply. (Multiple responses allowed) *Reference, 60.2 percent; collection development, 51.2 percent; administrator, 49.6 percent; circulation, 47.2 percent*

Selections offered included:

*Administrator; children's circulation; clerical; collection development; documents; information technology; interlibrary loan; reference; technical services*



Open-ended responses included but were not limited to:

*Programming; public relations and marketing; library teacher; adult programs; teaching; information literacy instruction; All of the above; outreach; collaborating with teachers; computer teacher/library K-5; prefer not to answer; teacher librarian; grants, training, program development; mending, mailing ILL's, LPRC*

10. How many years have you been employed in the library sciences field?

*0-5 years, 17.9 percent; 6-10 years, 22.8 percent; 11-15 years, 12.2 percent; 16-20 years, 13.8 percent; 21+ years, 33.3 percent*

11. How many years have you been employed at your current library?

*0-5 years, 29.3 percent; 6-10 years, 25.2 percent; 11-15 years, 18.7 percent; 16-20 years, 11.4 percent; 21+ years, 15.4 percent*

12. In your library, who sets policies regarding handling of sensitive patron information (such as circulation histories, e-mail addresses, database/Internet searches, loan requests, etc.)?

*Department head, 15.1 percent; director, 47.1 percent; board of directors, 38.7 percent; academic president, 0.8 percent; I don't know, 5.9 percent; other (please specify in box below), 25.2 percent*

Open-ended responses included but were not limited to:

*WYLD consortia; school board; school district; dean of libraries; federal law/state law; media director; district media; FERPA; state of Wyoming; privacy officer; state law – 16-4-203 (d) (ix); district technology director*

13. What specific policies or procedures, if any, have your institute set forth regarding handling of sensitive information? Please select all that best apply from the list below, and type your response(s) in the "other" box.

*Purchase and implementation of software that limits the degree to which personally identifiable information is monitored, collected, disclosed, and distributed, 29.4 percent; avoid creating unnecessary records, 61.3 percent; avoid retaining records that are not needed for efficient operation of the library, 78.2 percent; avoid library practices and procedures that place personally identifiable information on public view, 78.2 percent; delete/shred interlibrary loan information, 47.1 percent; I don't know, 5.9 percent; none, 5 percent; other, 10.1 percent*

14. Was training provided for all library staff members regarding these policies or procedures?

*Yes, 53.8 percent; no, 3.6 percent; I don't know, 14.3 percent*

15. If training was provided for library staff members specifically regarding these policies, what types of materials were used in this training? Please select all that apply:

*Books/literature, 18.6 percent; videos/DVDs, 5.2 percent; roleplaying, 10.3 percent; websites, 2.1 percent; software training, 15.5 percent; discussion groups, 42.3 percent; guest speakers, 17.5 percent; legal advice, 14.4 percent; don't know, 16.5 percent; no training was provided, 17.5 percent; other, 18.6 percent*

16. Does your library have an official privacy policy for patrons?

*Yes, 67.2 percent; no, 21 percent; I don't know, 11.8 percent*

17. How many subpoenas or warrants requesting patron information have you or your institution received since 2001?

*None, 76.5 percent; 1-3, 4.2 percent; 4-5, 0 percent; more than 5, 0.8 percent; I don't know, 16.8 percent; prefer not to answer, 1.7 percent*

18. How familiar are you with the USA PATRIOT Act?

*I am not familiar with the act, 0 percent; I have heard of the act, 12.6 percent; I have some basic knowledge of the act, 74.8 percent; I feel I am well informed regarding the act, 12.6 percent*

19. Where or how have you heard about the USA PATRIOT Act? Select all that apply.

*Supervisor, 19.3 percent; American Library Association, 58.8 percent; professional literature, 52.9 percent; newspaper articles, 73.9 percent; popular media (TV, non-academic magazines), 60.5 percent; Internet, 42.9 percent; government/legislative reports, 21.8 percent; other librarians/libraries, 54.6 percent; Wyoming Library Association, 47.9 percent; other, 10.1 percent*

20. What specific policies or procedures, if any, have your institution set forth specifically regarding the USA PATRIOT Act? Please select all that best apply from the list below, or type your response(s) in the "other" box.

*Established a record retention policy, 12 percent; provided special training for dealing with USA PATRIOT Act concerns and issues, 12 percent; avoiding the creation of unnecessary records, 47.9 percent; ensure that library procedures are secure regarding patron records, 39.3 percent; making sure*

*library staff understands the legal obligations to federal and local authorities, 39.3 percent; physical records are shredded and electronic versions deleted after a certain time period, 32.5 percent; established a privacy policy that addresses the USA PATRIOT Act, 6.8 percent; I don't know, 11.1 percent; none, 22.2 percent; other, 8.5 percent*

21. Was training provided for library staff members specifically regarding these policies and procedures pertaining to the USA PATRIOT Act?  
*Yes, 28.2 percent; no, 58.1 percent; I don't know, 13.7 percent*

22. If training was provided for library staff members specifically regarding these policies or anything else directly related to the PATRIOT Act, what types of materials were used in this training? Please select all that apply:  
*Books, 2.6 percent; pamphlets, 9.4 percent; videos/DVDs, 0.9 percent; roleplaying, 2.6 percent; websites, 2.6 percent; software training, 1.7 percent; discussion groups, 19.7 percent; guest speakers, 7.7 percent; legal advice, 6.8 percent; no training was provided, 59 percent; other (please specify), 18.8 percent*

Open-ended responses included but were not limited to:

*Staff required to read any changes in policies; training is included within our overall training; we discussed this in staff meetings; instruction from state librarian; all requests for information are forwarded to the state librarian; no training in my department, but I can't speak to others who have more contact with patron records; in-service and departments discuss specific issues as needed; in-service topic; one-on-one and small group training*

23. Below are examples of questions that library patrons might ask concerning their privacy and the PATRIOT Act. If you or your institution has been asked one or more of these questions (or something similar), select all that apply.

*How does the library protect confidentiality of records of books or articles that I check out and websites I might visit? 25.6 percent; How does the library use caches of Internet sites visited? 9.4 percent; How long are book checkout records kept on file once books are returned? 29.9 percent; How confidential is your patron database? 20.5 percent; Do library employees sign confidentiality agreements with regard to disclosure of patron records? 1.7 percent; Have you received training on implications of USA PATRIOT Act for librarians? 2.6 percent; How many subpoena requests about patrons or their records has this library received from the FBI, INS, or the*

*police? 6.8 percent; Does the library cooperate with voluntary requests for patron records by FBI, INS, or the police? 7.7 percent; Does the library mail server keep a record of communication between staff and patrons? 2.6 percent; If I do a search of the library collections, does your software retain a copy of the search? 11.1 percent; I have not been asked any of these types of questions, 55.6 percent; other, 5.1 percent*

24. How many subpoenas or warrants for patron records under the USA PATRIOT Act have you or your institution received since 2001?  
*None, 76.1 percent; 1-3, 2.6 percent; 4-5, 0 percent; more than 5, 0 percent; I don't know, 18.8 percent; prefer not to answer, 2.6 percent*

25. Please tell me anything else that you think might be relevant, and provide further explanation for any of your responses from the above questions:

Open-ended responses included but not limited to:

*We were served a subpoena for our Internet sign-in sheet two years ago. It had been shredded the day before but we still had the remains in the garbage. We had to hand it over but they had to put the pieces together. We have never heard what happened with the incident.*

*At our building staff has been instructed to politely refuse to turn over any information, including things like staff contact info, etc. All inquiries are to go to the director, staff will not compromise patron information.*

*Local police department have asked about our Internet sign-up system. I explained we had added a program to 'default to original setting' ever time we rebooted the computer. We were spending hours resetting the defaults even before the publicity on the USA PATRIOT Act. The officer left without making any comments.*

*The USA PATRIOT Act has not been a source of concern to the people who use this library. It has been a matter of concern and discussion for the library community—especially on the national level.*

*As a law library serving a court, we have always had a pretty strict confidentiality policy. The type of information we have in the library does not contain the type of information that would be the main object of a USA PATRIOT Act investigation. Texts of statutes and decisions of the courts are usually not suspect.*

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23. Voelck, "Directive and Connective," 400.
24. Ibid., 395.
25. Ladenson, "Gender and Academic Library Management."
26. Paula T. Kaufman, "Library Leadership: Does Gender Make a Difference?" *Journal of Library Administration* 18, no. 3/4, (1993): 109-28.
27. Dickinson, "Looking at the Male Librarian Stereotype," 103.
28. Kenneth Carpenter, as cited in Dickinson, 103-04.
29. Dickinson, "Looking at the Male Librarian Stereotype," 104.
30. Janice Fennell, "The Woman Academic Library Administrator: A Career Profile," in K. M. Heim (Ed.), *The Status of Women in Librarianship: Historical, Sociological, and Economic Issues* (New York: Neal-Schuman, 1983): 207-42; Suzanne Hildenbrand, "Ambiguous Authority and Aborted Ambition: Gender, Professionalism, and the Rise and Fall of the Welfare State," *Library Trends* 34, no. 2 (Fall 1985): 185-98.
31. Patricia N. O'Brien, "The Recruitment of Men into Librarianship, Following World War II" in K. M. Heim (Ed.), *The Status of Women in Librarianship: Historical, Sociological, and Economic Issues* (New York: Neal-Schuman, 1983): 51-66, quoted in Ladenson.
32. As cited in Ladenson, "Gender and Academic Library Management."
33. Voelck, "Directive and Connective," 394.
34. Piper and Collamer, "Male Librarians: Men in a Feminized Profession," 409.
35. Joyce M. Beggs and Dorothy C. Doolittle, "Perceptions Now and Then of Occupational Sex Typing: A Replication of Shinar's 1975 Study," *Journal of Applied Social Psychology* 23, no. 117 (1993): 1,435-53.
36. James V. Carmichael, "Gender Issues in the Workplace: Male Librarians Tell Their Side," *American Libraries* 25 (Mar. 1994): 227-30.
37. Dickinson, 105.
38. Kathleen de la Pena McCook, as quoted in Vogt, 24.
39. Piper and Collamer, "Male Librarians: Men in a Feminized Profession," 409.
40. Ibid., 410.
41. Dickinson, "Looking at the Male Librarian Stereotype," 105.
42. Andrew Hickey, "Cataloguing Men: Charting the Male Librarian's Experience through the Perceptions and Positions of Men in Libraries," *The Journal of Academic Librarianship* 32, no. 3 (2006): 286-95.
43. Hickey, "Cataloguing Men," 287-88.
44. Michael Farrelly, "For the Boys," *Public Libraries* 45, no. 1 (2006): 37-38.
45. Ibid., 38.
46. Rachel Singer Gordon, "The Men Among Us," *Library Journal* 129, no. 11 (2004): 49.
47. Piper and Collamer, "Male Librarians: Men in a Feminized Profession."
48. Ibid., 406.
49. Ibid., 410.
50. Ibid., 408.

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*I know of at least one subpoena, but I have never been privy to that information. There is no training for technical services personnel, but I know there is some for access services. I know we do not retain personal checkout records once items have been returned.*

*Any request from law enforcement that relates to patron records goes through library administration. I am aware of only one instance in the last few years of law enforcement taking a library computer as evidence in a criminal case. I am not aware of any requests under the USA PATRIOT Act, but library administration would have that answer.*

*Can't answer this, as to do so would be in violation of the USA PATRIOT Act. As an aside, the Wyoming state librarian is the custodian of all library/patron records for the state as we have an integrated database (the first and best in the country!).*

*Wyoming law is very specific about the privacy of library transactions. This includes everything, from circulation and ILL to use of databases.*

*There have been general discussions regarding "student" privacy issues according to FERPA and we basically use the same guidelines in regard to the library as we are a sub unit of the college.*

*It is illegal to confirm whether or not you have been asked for patron records under the USA PATRIOT Act.*

*In 1995, when we first provided Internet access for our patrons (all text-based), we immediately had issues with the FBI. They confiscated two computers over the years, one where they had proof that someone threatened the president using that IP address (so now we do DHCP) and one where someone bounced information off of our system. Our county attorney has been an excellent ally for us in writing policy that protects our patrons.*

*I think that probably school libraries would be basically outside the realm of most USA PATRIOT Act requests. But if the NSA came looking for info from a school I would bet that most school districts would not know what to do with the request.*