

PUBLIC AFFAIRS COMMITTEE
September 15, 2005

September 2005 Update

Keith Ann Stiverson
Margaret A. Schilt
Co-Chairs

GPO and FDLP Issues

The Government Printing Office (GPO) continues to move forward in the design of its Future Digital System, for which full implementation is scheduled for December 2007. While there is much to like in some of these plans, including improved functionality for GPO Access, there is still a long way to go in the planning process before we can really grasp all of what the Future Digital System will mean for law libraries.

GPO backed down from a plan announced last winter to severely curtail print distribution to depository libraries. In the aftermath of that reversal, GPO has surveyed depositories for their views about the makeup of a revamped *Essential Titles List*, but it remains unclear how this survey and the move toward a more fully digital documents program will affect the distribution of tangible documents.

Of particular interest to law libraries is that, for the present, tangible formats like print documents are the only formats which meet the standards of authenticity, preservation, version control, and permanent public access which our critical official legal documents must meet. GPO's stated goal of achieving these standards in a predominantly digital environment has not yet been demonstrably realized. Some depository librarians, concerned about the possibility that GPO's stated commitment to permanent no-fee access to digital content could be reversed at some future date, have begun to advocate for a system of distributed digital holdings in depository libraries akin to the distributed holdings of depository documents in paper and microfiche.

The Depository Library Council will meet in October in Washington, DC. Time has been set aside at the meeting for government information librarians to discuss their vision for their role in the Future Digital System. A brief summary of that discussion will appear in our next update at the November CALL meeting.

Also, on Friday, Sept. 23, the Illinois State Library is hosting a conference on the status and future of the FDLP. The Deputy Superintendent of Documents will be in attendance and Illinois depository libraries have been invited to send a representative. I'll provide you with an update in the Public Affairs Committee's next handout.

Contributed by
Kevin McClure
kmclure@kentlaw.edu

IL ADMINISTRATIVE CODE

*Update on currency of available resources

PRINT:

Code of Illinois Rules / Illinois Administrative Code (Weil's) – KFI 1235.2000.A42 (Monthly updates) – Weil Publishing, http://www.weilpublishing.com/category/g_il.html. NOTE: Weil Publishing is now a part of LexisNexis, but LexisNexis doesn't always have the best coverage (see below).

Illinois Register – KFI 1234.A2143 (last received Sept. 2, 2005 as of 9/12/05)

LEXISNEXIS:

ILADM (Illinois Admin. Code) Update-Schedule: Updated regularly – atypical update schedule/as received from the government [Current through 9/9/2005 as of 9/12/05].

ILRGST (Illinois Admin. Register) Update-Schedule: Updated regularly – atypical update schedule/as received from the government [Current through August 26 th, 2005 , Vol. 29, Issue 35 as of 9/12/05].

WESTLAW:

IL-ADC (Illinois Admin. Code) Update-Coverage: Coverage includes the complete set of regulations as set forth in the *Illinois Administrative Code*. The *Illinois Administrative Code* titles are current through September 9 th, 2005 .

IL-ADR (Illinois Admin. Register) Update-Coverage: Coverage begins with July 14, 1995 ; Vol. 19, Issue 28, and is current through September 9, 2005 ; Volume 29, Issue 37, except for Volume 28, Issue 28, dated July 9, 2004 . This database is updated weekly.

WEBSITES:

Illinois Administrative Code - <http://www.ilga.gov/commission/jcar/admincode/titles.html>

Illinois Administrative Register – <http://www.cyberdriveillinois.com/departments/index/register/home.html> (Current through Issue 38, September 16, 2005 , Pages 13937 – 14144)

**NOTE – According to information received via e-mail from the Joint Committee on Administrative Rules, “JCAR receives material to use in preparing the *Illinois Register* for publication one week in advance. Once the issue is ready to send to the publisher, the adopted rulemakings are incorporated into the text of the *Illinois Administrative Code*, and the Legislative Information System makes it available on the website about 24 hours later. As this information precedes the paper copy of the Register typically by 5 days and is updated weekly year round, the reader is always seeing timely Code text. In fact, the reader sees this material about six days before the paper copy is available...”.

Flinn Reports (Joint Committee on Administrative Rules) - <http://www.ilga.gov/commission/jcar/flinn/flinn.asp> (Last Issue - 37, September 9, 2005)

Illinois Rulemaking Process - <http://www.ilga.gov/commission>

[/jcar/ILRulemakingProcess.pdf](#)

2004 Annual Report (Joint Committee on Administrative Rules) - <http://www.ilga.gov/commission/jcar/JCAR%20Annual%20Report.pdf>

RECOMMENDATION : Researchers should rely on the online versions of the *Illinois Administrative Code* and *Illinois Administrative Register* available from the Legislative Information System when the print updates or online databases lag behind (Westlaw/Lexis are about 3-5 days behind, too).

~ submitted by Heidi L. Kuehl
h-kuehl@law.northwestern.edu

Permanent Public Access Issues

The Special Committee on Permanent Public Access to Legal Information of AALL has completed the work of gathering the data for the document to be prepared by the Committee for publication in Spectrum.

The Special Committee on Permanent Public Access to Legal Information will examine whether AALL should take an active role in helping to develop an agenda of cooperative actions to ensure the long term access to born digital legal information, and the preservation of print legal materials. It will focus on whether AALL should strengthen its relationship with LIPA (Legal Information and Preservation Alliance), which is developing a national preservation plan for digital and print legal materials.

The charge to this Special Committee is to create a Members' Briefing for the December 2005 AALL Spectrum (deadline is October 3, 2005). The Committee shall submit an interim report to the Executive Board for its meeting in October 2005 and a final report to the Executive Board at the Spring 2006 meeting.

The Special Committee shall consist of a chair and eight members. The members will be appointed by the President and serve until July 2006. A non-voting Executive Board liaison will be appointed. The staff liaison shall be the Executive Director.
Contributed by Christopher Simoni

csimoni@law.northwestern.edu

USA PATRIOT Act Update

Several provisions of the USA PATRIOT Act are scheduled to sunset at the end of December, 2005. The House and the Senate each passed USA PATRIOT Act Reauthorization Acts, H.R. 3199 and S. 1389, at the end of July, after extensive public hearings through the spring and early summer.

Both bills extend the expiring sections: the Senate bill extends the sunset date on Sections 206 and 215 until December 31, 2015 . The House bill extends the date only 4 years, to December 31, 2009 . Each bill provides some additional protections in the operation of Section 215, the section providing for FISA orders for production of business records or other tangible items from any business, including libraries. The Senate bill requires that the order describe the items sought with particularity and provide a reasonable time for their assembly. Both bills clarify that the recipient of the order may

obtain assistance of counsel and challenge the order in court. The bills differ in the findings the court must make in order to issue a Section 215 order: the Senate bill offers more protections in this area. A detailed comparison of the two bills is available at <http://www.fas.org/sgp/crs/intel/RL33027.pdf> : CRS Report for Congress dated August 9, 2005 titled USA PATRIOT Act: Background and Comparison of House- and Senate-approved Reauthorization and Related Legislative Action. A shorter comparison chart is contained in the August 22, 2005 issue of BNA's Privacy & Security Law Report.

A conference committee is expected to resolve the differences between the bills and a reauthorization enacted before the end of the year.

During the hearings, statements were made by representatives of the Justice Department that Section 215 had not been used to obtain the records of a library, but that the power to do so was a necessary part of the Government's arsenal against terrorism. Section 505 of the Act, however, has been used by the government to request subscriber information, billing information and access logs from an organization possessing information about library patrons, including circulation records and internet usage information. The facts of the case are detailed in a complaint filed by the ACLU on behalf of the organization, challenging the constitutionality of the provision. See *ACLU v. Gonzales*, D.Conn., case number not disclosed, redacted complaint released 8/25/05 .

Contributed by Margaret Schilt
schilt@uchicago.edu

FOIA

The Faster FOIA Act of 2005, S. 589, was introduced last March 10 and reported out of the Senate Judiciary Committee without amendment a week later. The measure was cosponsored by, among others, Senators Durbin, Leahy, and Feingold. The bill would establish a Committee on Freedom of Information Act Processing Delays to study methods to help reduce delays in processing requests submitted to Federal agencies under the Freedom of Information Act. If the legislation passes, the Commission would be composed of 16 members appointed by various House and Senate committees, the Attorney General of the United States , the Director of OMB, the Archivist of the United States , and the Comptroller General. Appointees must have experience with FOIA requests, and the charge of the Committee is to identify methods to reduce delays in processing FOIA requests. They are required to submit a report within one year.

OpenTheGovernment.org, an organization of "Americans for less secrecy, more democracy," released its second annual *Secrecy Report Card*. Among other findings, the group found that the public made more than 4 million requests for information from government agencies, but only 14 of 90 agencies were able to keep up with FOIA requests. The organization is developing quantitative indicators in order to help evaluate openness and secrecy in government. Mary Alice Baish, Associate Washington Affairs Representative, is a member of this organization's steering committee, so we are sure to hear more about their activities.

(Questions? Contact Keith Ann Stiverson, kstivers@kentlaw.edu)