

Public Affairs Committee

November 18, 2005

November 2005 UPDATE

Keith Ann Stiverson
Margaret A. Schilt
Co-Chairs

CALL Legislator of the Year

At CALL's Executive Board meeting on November 8, 2005, the Board approved a resolution honoring Illinois Senator Dick Durbin for his dedication to issues of particular interest to law librarians, including freedom of speech, confidentiality of library records and other civil liberties. The Board plans to present a plaque to Mr. Durbin at the January meeting; we hope that a member of his staff will attend that meeting to accept the plaque on his behalf. The text of the resolution follows here.

**A Resolution of the Executive Board of the
Chicago Association of Law Libraries (CALL)**

**Honoring
Senator Richard J. Durbin,
CALL Legislator of the Year
November 8, 2005**

Whereas, Senator Richard J. Durbin has ably served the State of Illinois since his election to the House of Representatives in 1983; and

Whereas, Senator Durbin was elected to the United States Senate in 1996, and thereafter was elected or appointed to a number of leadership posts by his colleagues in the Senate; and

Whereas, Senator Durbin has evidenced his commitment to the values of freedom of speech and other civil liberties, and his concern for the confidentiality of library records through his leadership in the Senate in the reconsideration and reauthorization of portions of the USA PATRIOT Act; and

Whereas, under Senator Durbin's leadership, the Security and Freedom Enhancement (SAFE) Act of 2005 was introduced by a bipartisan group of senators; and

Whereas, the SAFE Act would improve the USA PATRIOT Act by providing safeguards that impose reasonable limits on government seizure of business and library records, "sneak and peek" warrants, and roving wiretaps, thereby protecting innocent Americans from unchecked government surveillance; and

Whereas safeguards similar to those included in the SAFE Act of 2005 have been incorporated in S. 1389, the Senate bill to reauthorize the USA PATRIOT Act; which bill Senator Durbin has supported and continues to support as is it is considered in conference committee; and

Whereas, Senator Durbin's leadership illustrates his strong commitment to free public libraries and to the privacy rights of American citizens: Now, therefore, be it

Resolved, That the Chicago Association of Law Libraries, by its Board of Directors –

Honors Senator Richard J. Durbin for his contributions to the nation's libraries, and thanks him for his dedicated service by naming him our first CALL Legislator of the Year.

Chicago Association of Law Libraries

By Naomi Goodman, President

GPO and FDLP Issues

The Fall Depository Library Council meeting in October, which focused largely on developing a “vision” for the role of libraries in a predominantly digital government information system, also provided an opportunity to assess GPO’s progress in the development of its Future Digital System (FDSys).

In their opening presentation, GPO addressed an important ambiguity in the use of the term “official” documents:

“All *GPO Access* documents are official in the sense that they are published by the Federal Government, at Government expense, or as required by law. GPO recognizes that there are connotations of the term ‘Official’, especially in the legal community, that differ from this definition. GPO is currently working on language to address this discrepancy.”

At issue is the number of primary source legal materials for which the electronic version is not recognized as “Official” for the purpose of legal citation. GPO acknowledges that this distinction, characterized as “small o official” vs. “capital O Official,” has important implications for the formats in which these titles are distributed to depository libraries.

“When making a choice of formats for distribution of publications to depository libraries, especially law libraries, GPO takes into account this additional connotation of the word “Official” [with a capital O]. However, that use of the term “Official” [with a capital O] relates to the appropriate use of the document, not to its authenticity or origin...”

On a related note, GPO has unveiled a test site on authentication of PDF files. Documents on the test site bear a seal of authenticity which can be validated to determine whether changes have been made to the original document. The test site is available at <http://www.gpoaccess.gov/authentication/> .

Progress on improvements to the search functionality of *GPO Access* is ongoing. The development of an emergency back-up for *GPO Access* resulted in search capabilities which greatly outperformed the main site; GPO anticipates that these improvements will be incorporated into the main site by the end of 2005. The improved *GPO Access* will be an interim release along the way toward the final release of a new *GPO Access* when the full FDSys is released by the end of 2007.

GPO also took time to address skepticism among some in the depository community about GPO’s commitment to permanent, no-fee public access to government information. GPO affirmed that they are “strongly committed to permanent public access,” which is “one of its most important, if not the most important, roles and responsibilities now and for the future,” and that government publications which fall within the scope of the Federal Depository Library Program will continue to be available on a no-fee basis through *GPO Access* or as tangible products through depository libraries. At the same time, GPO stressed that publications which are outside the scope of the FDLP are in the domain of their Sales program; the resurrection of a strong Sales program remains an important objective as GPO seeks to resume a cost recovery operation.

Contributed by Kevin McClure
kmclure@kentlaw.edu

Reauthorization of the USA PATRIOT Act

House members of the Conference Committee on reauthorization of the USA PATRIOT Act were named on November 10, 2005. The Committee met for intensive negotiations over the Veterans Day weekend, and the Washington Post reported on November 17, 2005 that a tentative agreement had been reached.

The agreement would:

- Make permanent 14 PATRIOT Act provisions that were set to expire December 31.
- Provide a seven year sunset for three provisions, including Section 215 regarding access to business records (including library and bookstore records), and the roving wiretaps section.
- Place some new controls on national security letters under Section 505 including permitting recipients to consult a lawyer and challenge the letter under a specially-prescribed judicial review process.
- Weaken a block of House-approved death penalty provisions.

The Washington Post states: "But, on balance, the compromise sides with a stronger government hand when terrorism investigations clash with civil liberties concerns." Earlier, on November 9, the House had approved by unanimous vote a motion instructing the conferees to approve the Senate version of the bill, providing for 4-year sunsets for several provisions.

The tentative agreement could go to a final vote before the end of the week; however, the Associated Press reports on Nov. 17 that the deal is unraveling fast. Four Democratic senators, joined by Representative John Conyers of Michigan, the ranking Democrat on the House Judiciary Committee, complained in a public announcement that the compromise does not sufficiently curb FBI power to gather information by requiring investigators to show that the subject's records are connected to a foreign government. Senator Patrick Leahy of Vermont, the ranking Democrat on the Conference Committee, has withheld public support of the agreement and Senator Arlen Specter, Chairman of the Committee, canceled a scheduled press conference. Negotiations are continuing.

Legal Challenge to the PATRIOT Act

A hearing was held in the Second Circuit Court of Appeals on November 2, 2005 on the interlocutory appeal of the Department of Justice and the FBI. They appealed a ruling made by the United District Court of Connecticut judge Janet Hall that the FBI could not prevent the John Doe librarian from revealing his or her identity in order to challenge the national security letter the librarian had received, issued pursuant to Section 505 of the PATRIOT Act. A decision has not yet been rendered.

Since the hearing, the Washington Post has named the librarian, who has declined to speak or identify himself, citing the gag order. George Christian is the executive director of the Library Connection, a non-profit organization that manages digital records for 26 Hartford, Conn. Area libraries. He was identified by comparing the heavily redacted court documents with other public records and information from persons who were unaware of the national security letter. The challenge to the letter was brought in the Connecticut court by Christian's employer.

Contributed by
Margaret A. Schilt
schilt@uchicago.edu

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