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Library Challenges FBI Request

Patriot Act Prohibits Details of Lawsuit From Being Released

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 Friday, August 26, 2005; Page A11

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A member of the American Library Association has sued the Justice Department to challenge an FBI demand for records, but the USA Patriot Act prohibits the plaintiff from publicly disclosing its identity or other details of the dispute, according to court documents released yesterday.

The lawsuit comes as Congress prepares to enter final talks over renewal of the Patriot Act, a counterterrorism law that was overwhelmingly approved after Sept. 11, 2001. But parts of the law, including provisions that could have an impact on libraries, have since come under fire.

Justice Department and FBI officials have repeatedly declined to identify how many times Patriot Act-related powers have been used to seek or obtain information from libraries, but they have strongly urged Congress not to limit their ability to do so.

The suit, originally filed under seal in Connecticut on Aug. 9, focuses on the FBI's use of a document called a "national security letter" (NSL), which allows investigators to demand records without the approval of a judge and to prohibit companies or institutions from disclosing the request. Restrictions on the FBI's use of NSLs were loosened under the Patriot Act.

The identity of the institution, the records being sought and numerous other details are edited out of the public version of the complaint released by the American Civil Liberties Union, which is a party to the lawsuit.

But the edited lawsuit reveals that the plaintiff is a member of the libraries association, that it provides "circulation and cataloging of library materials," and that it allows "library patrons . . . to search library collections and check the status of their accounts." The complaint also says the institution "provides Internet access for use by staff and patrons" and that the FBI was seeking "subscriber information, billing information and access logs" related to an unidentified target.

Justice Department spokesman Brian Roehrkasse declined to comment on the dispute because of the pending litigation.

ACLU lawyer Ann Beeson said the group is asking the court to lift a gag order that has been imposed in the case and said the dispute is directly relevant to the debate on Capitol Hill over the

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Patriot Act.

The House and Senate approved bills in July to renew or make permanent 16 provisions of the Patriot Act set to expire at the end of the year. Civil liberties groups are particularly opposed to the House version, which, among other things, would allow those who violate a gag order in connection with an NSL to be sentenced to as long as five years in prison.

"The most immediate concern we have is that if Congress passes the House version, our client could actually go to jail for participating in the Patriot Act debate," Beeson said.

Patrice McDermott of the American Library Association said the lawsuit "shows what we've been saying all along: that the FBI is indeed very interested in libraries."

Attorney General Alberto R. Gonzales said during Senate testimony in April that the Justice Department "has no interest in rummaging through the library records or medical records of Americans" but that "libraries should not become safe havens" for terrorists or other criminals.

Gonzales said at the time that the FBI had never asked for records under a provision of the Patriot Act known by critics as the "library provision," which allows the government to demand records from a range of businesses, including libraries, in intelligence probes.

But that provision is separate from the one that governs the kind of letter used in the Connecticut case. Justice and FBI officials have repeatedly declined to say how many times such letters have been served on any kind of institution, including libraries.

Gonzales and FBI Director Robert S. Mueller III have defended the government's need to obtain records related to Internet use at public libraries. FBI investigators found that some of the Sept. 11 hijackers accessed the Internet at libraries in Florida and New Jersey.

The government is currently appealing a separate decision involving the ACLU in New York, where a federal judge ruled in September 2004 that the federal statute governing the use of national security letters was unconstitutional.

Researcher Julie Tate contributed to this report.

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