

Memo

To: Montana State Library Commission
From: Karen Strege
Date: 12/19/2007
Re: Federal Legislation

CIPA

On June 23, 2003, the Supreme Court upheld the Children's Internet Protection Act, known as CIPA. This decision means that public libraries must install filters if they receive federal funding, E-Rate or Library Services and Technology Act (LSTA), for Internet access.

The State Library's role in this matter is simple and in tune with our past work. We will provide reliable information to all Montana public libraries regarding the decision, including the rules adopted by the FCC and the Institute of Museum and Library Services, the administer of LSTA; policy options for libraries; and information about filtering technology. Along with other state libraries, we plan to offer unbiased evaluations of filtering software and to work with vendors of these products to advocate for the needs of Montana's public library users.

MSL will distribute this information through its web-site <http://msl.state.mt.us/admin/CIPA.htm> and through postings to the Montana Library Community's list-serve, Wired-Mt. MSL will offer workshops for librarians and trustees so that they may learn more about the law and its rules and filtering software.

The court has decided and public library boards and directors now face the real job, that of deciding if to continue to seek federal funding and if so, how to best balanced the public's right to know with the requirements of the law.

PATRIOT ACT

Last year, Congress adopted the Patriot Act, enacted to help track down and punish terrorists and to prevent further terrorism. Part of this lengthy and complex legislation was amendments to the Foreign Intelligence Surveillance Act (FISA). These amendments have been interpreted to allow the FBI to compel libraries to show their records using FISA methods. Before the adoption of the Patriot Act, Montana law, the Library Records Confidentiality Act, protected library records which link the name of a user with an item unless a court found that the disclosure was necessary. No such court review is required by the Patriot Act. According to information posted on the American Library Association (ALA) website

"The Patriot Act amends the business record sections of the Foreign Surveillance Intelligence Act (FISA). Before the USA PATRIOT ACT, federal authorities, engaged in gathering foreign intelligence

information or conducting an investigation of international terrorism, could seek a FISA court order for access to hotel, airline, storage locker, or car rental business records. The businesses to whom the orders were addressed were bound to silence. Section 215 amended the procedure so that in a foreign intelligence or international terrorism investigation federal authorities may obtain a FISA order for access to *any tangible item no matter who holds it*, including by implication library loan records and the records of library computer use.”

The ALA and other organizations concerned about privacy matters have lobbied Congress to amend the Patriot Act and the FISA to protect the confidentiality of citizens who use library resources. At of today, such efforts have been unsuccessful. However, media attention favorable to this action and recent Congressional attention has created optimism.

The Commission can help convince Congress to amend the penitent laws to allow library users to use materials without fear of scrutiny. I recommend that the Commission submit a letter to our Congressional delegation that urges them to protect the confidentiality of library records. Law enforcement, including the FBI, have other methods under state law and federal law to access library records.