

## Privacy and government information issues: Looking forward, looking back

### Privacy: What happened in 2004

Last year in the 108th Congress, a number of bills to amend the USA PATRIOT Act in both positive and negative ways were introduced; none of them passed.

The good news is that a rider was slipped into the nine-agency omnibus appropriations bill that Congress passed late on November 20, 2004, requiring every agency to have a chief privacy officer. This person will create policy for privacy and data protection, assuring that technology does not erode privacy protections relating to the use, collection and disclosure of information. Also the Intelligence Reform and Terrorism Prevention Act of 2004 included a Civil Liberties and Privacy Oversight Board, as called for by the 9/11 Commission, although the final version of the Board is significantly weaker than what the commission or the Senate originally had called for.

The bad news is a driver's license standardization provision in the Intelligence Reform and Terrorism Prevention Act of 2004. This provision creates a possible precursor to a national identification system by requiring all states to conform their driver's licenses and state IDs to a single uniform national standard. ALA has long worked in opposition to proposals for a national ID system as a threat to personal privacy, and the ubiquitous use of driver's licenses as the main source of identification in most transactions, including library cards, increases the risk that personal information would be easily accessible.

### What's to come in 2005?

Section 215 of the USA PATRIOT Act is scheduled to sunset on December 31, 2005, unless Congress acts to rescind the sunset provision (Sec 224) of the act. We can expect a fight on this.

---

Bernadette Murphy is communications specialist at ALA's Washington Office, e-mail: [bmurphy@alawash.org](mailto:bmurphy@alawash.org)

We anticipate the SAFE Act being reintroduced in both the Senate and the House, possibly in a strengthened form, and the Freedom to Read Protection Act being reintroduced in the House.

We can also expect PATRIOT expansion bills to be introduced in both chambers. We expect more efforts to strengthen compliance with Section 215 orders and with the gag orders.

### Access to government information: What happened in 2004

During the 108th Congress, the bill creating the Department of Homeland Security contained provisions carving out protection for critical infrastructure information (CII) and called for guidance to be issued on access to and the handling of sensitive homeland security information, a subcategory of sensitive but unclassified information.

### What can we anticipate in the 109th?

The good news is that Senator Cornyn (R-TX) intends to introduce legislation to strengthen the Freedom of Information Act (FOIA), in procedural ways (but not getting rid of any exemptions).

We anticipate legislation being introduced, most probably by Democrats, to strengthen FOIA by revoking the CII provisions of the Homeland Security Act, to address the Executive Order of Presidential Records and overclassification of records. The odds are against success of these bills, but we will work hard to promote them.

We can also expect more legislation to take bites out of FOIA and to expand the range of information that can be excluded, under the rubric of sensitive security information or some variant thereof, from public access.

The Government Printing Office has proposed to undertake a number of initiatives related to preservation of government documents (print and electronic) and creation of a national bibliography. If done properly, these stand to improve the public's chances of long-term access to government information. ♪