

Resolution on the Use and Abuse of National Security Letters

On the Need for Legislative Reforms to Assure the Right to Read Free of Government Surveillance

WHEREAS, the American Library Association (ALA) is committed to preserving the privacy rights of all persons in the United States, especially library users and library employees; and

WHEREAS, the freedom of thought is the most basic of all freedoms and is inextricably linked to freedom of inquiry; and freedom of inquiry can be preserved only in a society in which privacy rights are rigorously protected; and

WHEREAS, ALA reiterates its opposition to any proposal or actions by government that suppresses the free and open exchange of knowledge and information or that intimidates individuals exercising free inquiry; and

WHEREAS, certain statutes authorized by Congress provide the Federal Bureau of Investigation (FBI) authority to use National Security Letters (NSLs), a form of administrative subpoena issued without judicial oversight or adequate judicial review; and

WHEREAS, NSLs can be used by the FBI to obtain an individual's most personal information, including financial records, credit records, telecommunication records, and Internet use records, including library Internet use records, without ever notifying the individual; and

WHEREAS, the laws authorizing the use of NSLs automatically impose a permanent nondisclosure or "gag" order on any recipient of an NSL, making it illegal for individuals or organizations to ever reveal that they have been asked to provide records or information to the FBI and requiring NSL recipients to risk fines and imprisonment in order to report any abuse of government authority, abrogating the recipients' First Amendment rights; and

WHEREAS, the Department of Justice's Office of the Inspector General (OIG) reported it found that the FBI had engaged in widespread and serious abuses of its authority to use NSLs. These abuses include significantly understating the number of NSLs used by the FBI in the classified reports given to Congress; using NSLs to collect consumer information, a practice that is prohibited by statute; and using exigent letters (requests to provide information prior to the issuance of an actual NSL or subpoena) to circumvent the requirements of the NSL statute and to obtain information in the absence of any duly authorized investigation; and

WHEREAS, the FBI collects and shares vast amounts of information derived from NSLs with local, state, and federal law enforcement and intelligence agencies, foreign governments, and, pursuant to executive order, "appropriate private sector entities"; and

WHEREAS, the FBI attempted to use an NSL to obtain library users' records from the Library Connection in Windsor, Connecticut; and

WHEREAS, FBI Director Robert Mueller caused classified written testimony to be provided to the Senate Judiciary Committee on March 30, 2007, concerning other instances when FBI agents may have used NSLs to obtain information from libraries about library users; and

WHEREAS, the FBI's documented abuse of its NSL authorities indicates that information about library users may be misused and disclosed in a manner contrary to law and professional ethics; and

WHEREAS, the use of NSLs strips members of the public, including librarians, of their fundamental First Amendment rights; now, therefore, be it

RESOLVED, That the American Library Association condemns the use of National Security Letters to obtain library records; and, be it further

RESOLVED, That the American Library Association urges Congress to pursue legislative reforms in order to provide adequate protection for each library user's Constitutional right to be free from unwarranted and unjustified government surveillance, including:

- Judicial oversight of National Security Letters (NSLs) requiring a showing of individualized suspicion and demonstrating a factual connection between the individual whose records are sought by the FBI and an actual investigation;
- Elimination of the automatic and permanent imposition of a nondisclosure or "gag" order whenever an NSL is served on an individual or institution;
- Allowing recipients of NSLs to receive meaningful judicial review of a challenge to their NSL without deferring to the government's claims;
- Increased oversight by Congress and the Office of the Inspector General of the U.S. Department of Justice over NSLs and FBI activities that implicate the First Amendment; and
- Providing for the management, handling, dissemination and destruction of personally identifiable information obtained through NSLs; and, be it further

RESOLVED, That the ALA communicates this resolution to the Offices of the President and Vice President, Congress, ALA members, and state chapters; and that ALA urges its members, state chapters, and all library advocates to ask Congress to restore civil liberties and correct the abuse and misuse of National Security Letters.

Adopted unanimously by the Council of the American Library Association
Wednesday, June 27, 2007
Washington, D.C.

Endorsed by the New Jersey Library Association Sept. 18, 2007