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Review of Refuge of a Scoundrel: The Patriot Act In Libraries

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REFUGE OF A SCOUNDREL: THE PATRIOT ACT IN LIBRARIES. Herbert N. Foerstel. *Westport, CT: Libraries Unlimited, 2004, \$35.00, ISBN 1-59158-139-7.*

If you read only one professional book this year, I suggest that you make it this one. From directors, reference librarians, systems librarians, to catalogers and other professional staff, this book is a must read. I recently had the privilege of attending the Oxford Roundtable on the Freedom of the Press and the USA Patriot Act, which attracted journalism and communications faculty, lawyers and law faculty, and, of course, librarians. It was very rewarding to hear colleagues from different disciplines express their appreciation for librarians whom they consider leaders in the fight to preserve First Amendment rights. This book is especially important for all librarians who actively engage in protecting First Amendment activities because it thoroughly explores and chronicles governmental efforts to restrict these rights. For those who may think that things are really okay and that all of the necessary battles took past in the distant past, you will think again after reading this book!

First, for those who may still be unaware, the USA Patriot Act is an acronym that stands for Uniting and Strengthening America by Providing Appropriate Tools to Intercept and Obstruct Terrorism Act. These tools are detailed in the 342-page bill that became law on October 26, 2001 and is the primary focus of this book. The act includes the following ten titles: Enhancing Domestic Security Against Terrorism; Enhanced Surveillance Procedures; International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001; Protecting the Border; Removing Obstacles to Investigating Terrorism; Providing for Victims of Terrorism, Public Safety Officers, and Their Families; Increased Information Sharing for Critical Infrastructure Protection; Strengthening the Criminal Laws Against Terrorism; Improved Surveillance; and

Miscellaneous. Within these 10 titles, the author identifies 48 sections that he believes are the most dangerous because they go beyond terrorism and apply to all federal investigations.

Foerstel discusses those provisions of this act that directly affect libraries, including the expanded authority of law enforcement to obtain access to various business records such as library circulation records. Under Section 215: Access to Records Under Foreign Intelligence Security Act (FISA), an FBI agent can obtain a “warrant” issued by a secret FISA court that will require the business (library) to immediately release any requested “tangible thing” and the business “may not disclose, under penalty of law, the existence of the warrant or the fact that records were produced in response to it” (p. 62). According to First Amendment author Nat Hentoff, “there has never before, to my knowledge, been so rigid a gag order in First Amendment history” (p. 97). Fortunately this section along with 12 other sections is scheduled to expire or “sunset” on December 31, 2005 unless it is renewed by Congress. That decision will have been made by the time this review is published.

Foerstel’s book, however, does not deal exclusively with the Patriot Act. The first chapter chronicles the recent history of government surveillance in libraries. Although aware of some of these situations, this reviewer had no idea of the extent to which libraries and librarians were considered potential sources of information to the enemy! In fact, according to Foerstel’s documented research, in 1988 FBI Assistant Director Ahlerich claimed, “ ‘the Soviet intelligence services are actually involved in recruiting librarians’ ” and “ ‘the Soviet Union routinely attempts to develop librarians as sources of information or recruit them as agents’ ” (p. 33).

Following the chapters on the Patriot Act, Foerstel describes in chapter 4, Making Things Worse, subsequent actions that the government is taking that goes beyond the Patriot Act. This covers such programs as the Total Information Awareness (TIA) project which is intended to provide an electronic surveillance network to “monitor every American’s reading habits, Internet surfing, financial transactions, mental health histories, and a vast range of personal information to create individual profiles designed to predict future behavior” (p.112). Another project is the Enhanced Computer Assisted Passenger Pre-Screening System (CAPPS II) that profiles every American for flight worthiness. This program causes an “S” to be printed on the boarding pass of any individual who is flagged as a possible security risk, resulting in an additional screening for that individual during the security check, or being put on a “no-fly” list such as recently happened to the former “Cat Stevens.”

Foerstel completes this work with a chapter that describes how citizens (including librarians) can fight back to help preserve First Amendment rights, several appendices that are very useful, and a selected bibliography that will be useful to those who are interested in learning more, including a reference to the author’s first book, *Surveillance in the Stacks: The FBI’s Library Awareness Program*.

This work is well written, carefully researched and documented, and recommended reading for every citizen, and especially librarians.

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