



**U.S. Department of Justice**  
Office of Legislative Affairs

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Washington, D.C. 20530

January 25, 2008

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Mr. Chairman:

Please find enclosed responses to questions posed to FBI Director Robert S. Mueller III, following Director Mueller's appearance before the Committee on March 27, 2007. The subject of the hearing was "Oversight of the Federal Bureau of Investigation."

The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to the submission of this letter. Please do not hesitate to contact this office if we may be of further assistance with this, or any other matter.

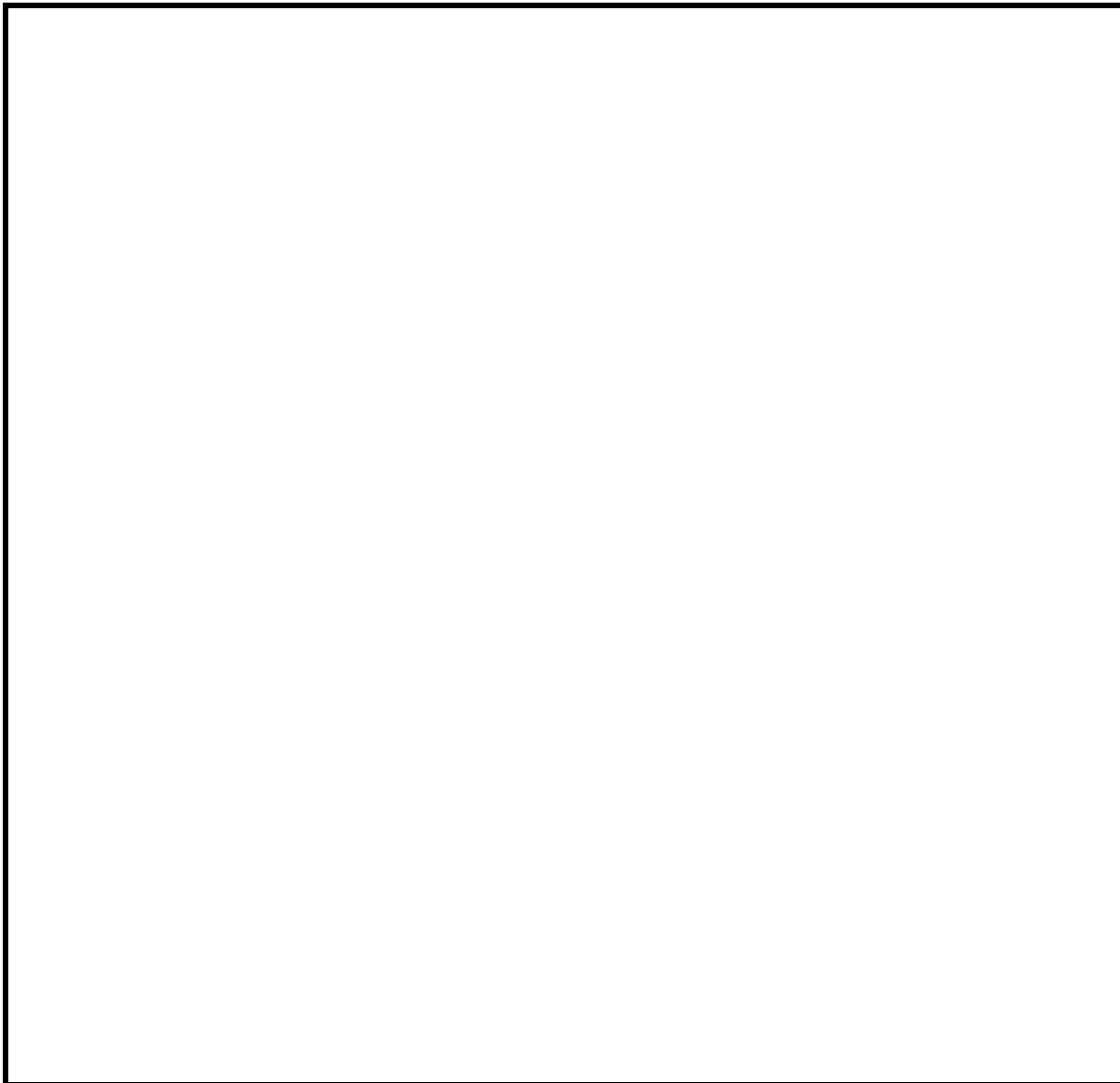
Sincerely,

Brian A. Benczkowski  
Principal Deputy Assistant Attorney General

Enclosures

cc: The Honorable Arlen Specter  
Ranking Minority Member

ACLU Sect.  
215-722



**12. During the hearing, you cited the Inspector General's Report on Section 215 of the PATRIOT Act, which found that the FBI rarely used this authority to obtain library records. However, I am concerned that the FBI is using other provisions in the PATRIOT Act to obtain this information, thereby circumventing the safeguards and reporting requirements of Section 215. For example in 2005, the FBI issued NSLs to four Connecticut libraries asking them to surrender "all subscriber information, billing information and access logs of any person" related to a specific library computer during a specific time period, pursuant to Section 505 of the PATRIOT Act. These NSLs also**

**prohibited the librarians from disclosing the fact that they had received the NSLs or their contents -- the so-called "gag order" under the PATRIOT Act.**

**a. Please describe the circumstances surrounding the FBI's decision to issue these National Security Letters.**

**Response:**

We believe the report that NSLs were served on four Connecticut libraries is erroneous. The FBI served one NSL on the Executive Director of Library Connections, Inc., an Internet service provider that furnishes computer services to several libraries. No library was served. Three directors of Library Connections, Inc., have apparently described themselves as individual NSL recipients, but the case agent who served the NSL on one official had no contact with the others.

This one NSL was issued in order to follow up on an alleged local connection to international terrorism. The FBI sought subscriber information, toll billing records, and logs relative to those who had access to the communications services during relevant times. The NSL was very narrowly tailored to seek information for only a 45-minute period.

**b. Please identify all of the PATRIOT Act provisions that the FBI has used to obtain library records from libraries and educational institutions?**

**Response:**

We understand the term "library records" to mean records of libraries that reflect loans of books, movies, and similar materials to library patrons. We are not aware of any use of the USA PATRIOT Act to obtain such "library records" from educational institutions or libraries. As indicated in the previous response, we are aware that one NSL was served on a company that provides computer services, including Internet access, to several libraries. This NSL was authorized by 18 U.S.C. § 2709, which was amended by section 505 of the USA PATRIOT Act.

**c. Is the FBI circumventing the requirements of Section 215 by relying on other provisions in the PATRIOT Act to obtain this information?**

**Response:**

The premise of this question appears to be that the sole authority for obtaining information from a library or educational institution is section 215 of the USA PATRIOT Act. In fact, libraries and schools are subject to grand jury subpoenas

and NSLs under certain circumstances. If a library provides Internet service that meets the definition of an electronic communication service, as defined in 18 U.S.C. § 2510(15), then the library is an electronic communication service provider to which the provisions of 18 U.S.C. § 2709 apply. Similarly, while special rules govern the acquisition of a student's records from a university, an NSL can be used to obtain toll billing records if the school is functioning as a telephone company relative to the provision of campus telephone services.

Outside the Scope

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