

# Libraries Say Yes, Officials Do Quiz Them About Users

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WASHINGTON, June 19 - Law enforcement officials have made at least 200 formal and informal inquiries to libraries for information on reading material and other internal matters since October 2001, according to a new study that adds grist to the growing debate in Congress over the government's counterterrorism powers.

In some cases, agents used subpoenas or other formal demands to obtain information like lists of users checking out a book on Osama bin Laden. Other requests were informal - and were sometimes turned down by librarians who chafed at the notion of turning over such material, said the American Library Association, which commissioned the study.

The association, which is pushing to scale back the government's powers to gain information from libraries, said its \$300,000 study was the first to examine a question that was central to a House vote last week on the USA Patriot Act: how frequently federal, state and local agents are demanding records from libraries.

The Bush administration says that while it is important for law enforcement officials to get information from libraries if needed in terrorism investigations, officials have yet to actually use their power under the Patriot Act to demand records from libraries or bookstores.

The library issue has become the most divisive in the debate on whether Congress should expand or curtail government powers under the Patriot Act, and it was at the center of last week's vote in the House approving a measure to restrict investigators' access to libraries.

The study does not directly answer how or whether the Patriot Act has been used to search libraries. The association said it decided it was constrained from asking direct questions on the law because of secrecy provisions that could make it a crime for a librarian to respond. Federal intelligence law bans those who receive certain types of demands for records from challenging the order or even telling anyone they have received it.

As a result, the study sought to determine the frequency of law enforcement inquiries at all levels without detailing their nature. Even so, organizers said the data suggested that investigators were seeking information from libraries far more frequently than Bush administration officials had acknowledged.

"What this says to us," said Emily Sheketoff, the executive director of the library association's Washington office, "is that agents are coming to libraries and they are asking for information at a level that is significant, and the findings are completely contrary to what the Justice Department has been trying to convince the public."

Kevin Madden, a Justice Department spokesman, said that the department had not yet seen the findings and that he could not comment specifically on them. But Mr. Madden questioned the relevance of the data to the debate over the Patriot Act, noting that the types of inquiries found in the survey could relate to a wide range of law enforcement investigations unconnected to terrorism or intelligence.

"Any conclusion that federal law enforcement has an extraordinary interest in libraries is wholly manufactured as a result of misinformation," Mr. Madden said.

The study, which surveyed 1,500 public libraries and 4,000 academic libraries, used anonymous responses to address legal concerns. A large majority of those who responded to the survey said they had not been contacted by any law enforcement agencies since October 2001, when the Patriot Act was passed.

But there were 137 formal requests or demands for information in that time, 49 from federal officials and the remainder from state or local investigators. Federal officials have sometimes used local investigators on joint terrorism task forces to conduct library inquiries.

In addition, the survey found that 66 libraries had received informal law enforcement requests without an official legal order, including 24 federal requests. Association officials said the survey results, if extrapolated from the 500 public libraries that responded, would amount to a total of some 600 formal inquiries since 2001.

One library reporting that it had received a records demand was the Whatcom County system in a rural area of northwest Washington.

Last June, a library user who took out a book there, "Bin Laden: The Man Who Declared War on America," noticed a handwritten note in the margin remarking that "Hostility toward America is a religious duty and we hope to be rewarded by God," and went to the Federal Bureau of Investigation. Agents, in turn, went to the library seeking names and information on anyone checking out the biography since 2001.

The library's lawyers turned down the request, and agents went back with a subpoena. Joan Airoidi, who runs the library, said in an interview that she was particularly alarmed after a Google search revealed that the handwritten line was an often-cited quotation from Mr. bin Laden that was included in the report issued by the Sept. 11 commission.

The library fought the subpoena, and the F.B.I. withdrew its demand.

"A fishing expedition like this just seems so un-American to me," Ms. Airoidi said. "The question is, how many basic liberties are we willing to give up in the war on terrorism, and who are the real victims?"

The survey also found what library association officials described as a "chilling effect" caused by public concerns about the government's powers. Nearly 40 percent of the libraries responding reported that users had asked about changes in practices related to the Patriot Act, and about 5 percent said they had altered their professional activities over the issues; for instance, by reviewing the types of books they bought.

Representative Bernard Sanders, independent of Vermont, who sponsored the House measure to curtail the power to demand library records, said he was struck by the 40 percent response.

"What this demonstrates is that there is widespread concern among the American people about the government having the power to monitor what they are reading," Mr. Sanders said.

The margin of the vote on Mr. Sanders's measure, which passed 238 to 187, with support from 38 Republicans, surprised even some backers, but Bush administration officials say they are hopeful the decision will be reversed and have threatened a veto of any measure that would limit powers under the Patriot Act.

Carol Brey-Casiano, who runs the library system in El Paso and is president of the library association, said she, too, sensed a public unease.

"We're concerned about protecting people's privacy," she said. "People will say to me, 'I've read about the Patriot Act, and does that mean the government can come in and ask you what I'm reading?' And my answer to them has to be, 'Yes, they can,' and quite frankly, I can't even tell anyone if that happened, because there's a gag order."

Investigators have long had the ability to seek out library records in tracking leads in criminal inquiries. In two of the most noted cases, investigators in the 1990's used library records to search for the Unabomber, who wrote detailed and unusual

academic treatises in his string of bombings over almost two decades, and for New York's "Zodiac Killer," who had cited the writing of an obscure occult poet.

Government officials say that while they have no interest in using their expanded powers under the Patriot Act to monitor Americans' reading habits, they do not believe that libraries should be safe havens for terrorists. They point to several cases in which Sept. 11 hijackers and other terror suspects used library computers to send e-mail messages.

Perhaps the fiercest counterattack from the Bush administration on the issue came in 2003 from John Ashcroft, then the attorney general, who said in a speech in Washington that groups like the American Library Association had bought into "breathless reports and baseless hysteria" about the government's interest in libraries.

"Do we at the Justice Department really care what you are reading?" Mr. Ashcroft asked. "No."

Ms. Sheketoff at the library association acknowledged that critics of the study may accuse the group of having a stake in the outcome of the Patriot Act debate. "Sure, we have a dog in this fight, but the other side has been mocking us for four years over our 'baseless hysteria,' and saying we have no reason to be concerned," she said. "Well, these findings say that we do have reason to be concerned."