

**ALA Intellectual Freedom Committee
Report to Council
2011 Annual Conference
New Orleans, LA
Tuesday, June 28, 2011**

The ALA Intellectual Freedom Committee (IFC) is pleased to present this update of its activities.

INFORMATION

Google Books Settlement

In consideration of the broad potential implications of the proposed Google Book Search Settlement in areas as diverse as intellectual freedom, copyright and fair use, privacy, access to information and economics, the Intellectual Freedom Committee and the Committee on Legislation request that the President, with advice of the Executive Board, convene an ALA-wide representative group to continue to assess the proposed Google Book Search Settlement and its ongoing impact on ALA members and member institutions and to make recommendations for action by the Association and its members.

The IFC endorses the final report of the Google Book Settlement Task Force calling for the establishment of a publishing industry oversight group within ALA. In addition, the IFC requests that this new body continue to pay special attention to the potential implications of industry changes on privacy, intellectual freedom, and access issues. These are key areas of ongoing concern that led the IFC to join COL in requesting the convening in 2009 of this Google Book Settlement Task Force.

Newsletter on Intellectual Freedom and Library Technology Report

The *Newsletter on Intellectual Freedom* will move from a paper edition to an electronic edition during 2011-2012. Deborah Caldwell-Stone and Barbara Jones have met with ALA Publications to work with them on this transition.

The Nov./Dec. 2010 issue of *Library Technology Reports* was edited by OIF's Angela Maycock. The title: *Privacy and Freedom of Information in 21st Century Libraries*. For details, please visit alatechsource.metapress.com.

OIF/IFLA Satellite Meeting in Miami, FL

The Office for Intellectual Freedom is teaming with the Committee on Free Access to Information and Freedom of Expression of the International Federation of Library Associations and Institutions to hold a satellite meeting in advance of the 2011 IFLA World Congress.

“Intellectual Freedom in a Changing World” will take place August 10-12, 2011 in Miami, FL and will feature sessions on some of today’s key intellectual freedom and free speech issues in libraries and beyond. Speakers from Norway, the United Kingdom, Japan, and Mexico will join several U.S. speakers to address religion in libraries, privacy, comic books, and health and sexuality educational efforts. There also will be a session discussing the banning of the book “Vamos a Cuba” in the Miami Public Schools.

Registration is open now at www.ala.org/faife2011. Please contact Jonathan Kelley at jokelley@ala.org for more information or with questions.

LeRoy C. Merritt Humanitarian Fund

The Intellectual Freedom Committee joins current and former Merritt Fund trustees in urging Council members to join the Leroy C. Merritt Humanitarian Fund. In reviewing the membership statistics at this conference, Merritt Fund trustees expressed concern about the low numbers of Councilors who are members of this important affiliate organization devoted to the support, maintenance, medical care, and welfare of librarians denied employment rights or discriminated against on the basis of gender, sexual orientation, race, color, creed, religion, age, disability, or place of national origin; or denied employment rights because of defense of intellectual freedom. Visit ala.org/merrittfund for more information.

PROJECTS

Choose Privacy Week

OIF received a second grant from the Open Society Foundations (Soros Foundation), for 2011–2013. The purpose of this grant is to continue the work of the recently completed first grant. The second grant will be used for the following:

- Continue Choose Privacy Week
- Focus on how to use libraries to educate youth and immigrants on privacy

OIF has submitted the final report for the first three-year grant to the Open Society Foundations, focusing on OIF efforts to:

- Establish Choose Privacy Week as an annual event during the first week of May. OIF has held two CPWs thus far.
- Establish the website, privacyrevolution.org.
- Host a Youth and Privacy conference in Chicago in March 2011. This very successful invitational event brought together privacy advocates with young people to strategize about ways for libraries to deliver privacy messages to youth. Visit youthprivacy.ala.org to learn more.

For further information on the two grants, please contact Barbara Jones, Deborah Caldwell-Stone, or Angela Maycock at OIF. Angela Maycock successfully coordinated and completed the first grant; Deborah Caldwell-Stone will coordinate the second one. The OSF has been extremely pleased with OIF's execution of this grant.

Banned Books Week

Banned Books Week 2011 will begin on September 24 and continue through October 1. In lieu of a physical Banned Books Week Read-Out in Chicago, IL, the ALA along with its cosponsors will host a virtual Banned Books Week Read-Out. The Read-Out will feature YouTube videos of authors reading from their favorite banned/challenged books or talking about the importance of the freedom to read.

BBW merchandise, including posters, bookmarks, t-shirts, and tote bags, are sold and marketed through ALA Graphics (www.alastore.ala.org/). More information on Banned Books Week can be found at www.ala.org/bbooks.

Online Learning

OIF conducted a survey regarding libraries' intellectual freedom online learning interests and needs that was open May 23-June 7, 2011, and received 530 responses. Based on survey results and previous discussions, OIF is developing an online learning plan. The office will offer "Intellectual Freedom Summer School" – a series of online learning opportunities, targeted to busy library professionals – as well as webinars related to Banned Books Week in 2011. Visit www.ala.org/onlinelearning for current offerings.

ACTION

Privacy and Self-Service Hold Practices

The "Resolution to Protect Library User Confidentiality in Self-Service Hold Practices" was developed by the IFC and the IFC's Privacy Subcommittee after receiving requests from librarians and library users to examine the issue of reader privacy and self-serve holds. Copies of the Resolution had been sent prior to Annual Conference and an open hearing was held during conference for comments. The IFC carefully considered all comments received both prior to and during the 2010 Annual Conference and now is moving adoption of Action Item #19.3.

USA PATRIOT Act

The IFC has worked with the Committee on Legislation (COL) to review the issues associated with the USA PATRIOT Act. A joint working group crafted the following "Resolution to Continue Opposition to the Use of Section 215 of the USA PATRIOT Act and the Use of National Security Letters to Violate Reader Privacy," which we are pleased to jointly present with the Committee on Legislation, and move the adoption of Action Item #19.4.

In closing, the Intellectual Freedom Committee thanks the division and chapter intellectual freedom committees, the Intellectual Freedom Round Table, the unit liaisons, and the OIF staff for their commitment, assistance, and hard work.

Respectfully Submitted,

ALA Intellectual Freedom Committee

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Resolution to Protect Library User Confidentiality in Self-Service Hold Practices

- Whereas, The ALA Code of Ethics states, "We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted"; and
- Whereas, The American Library Association affirms that rights of privacy are necessary for intellectual freedom and are fundamental to the ethics and practice of librarianship (*ALA Policy Manual*, 53.1.16, Privacy: An Interpretation of the Library Bill of Rights); and
- Whereas, The lack of privacy and confidentiality has a chilling effect on users' choices (*ALA Policy Manual*, 53.1.16, Privacy: An Interpretation of the Library Bill of Rights); and
- Whereas, The American Library Association strongly recommends the adoption of policies recognizing circulation records and other records identifying the names of library users to be confidential (*ALA Policy Manual*, 52.4, Confidentiality of Library Records); and
- Whereas, Confidentiality extends to (but is not limited to) database search records, reference interviews, circulation records, interlibrary loan records and all other records of personally identifiable uses of library materials, facilities, or services that associate the names of library users with specific materials (*ALA Policy Manual*, 52.4.2, Confidentiality of Personally Identifiable Information About Library Users); and
- Whereas, The confidentiality of library records is protected by law or by attorney general opinion in all fifty states and in the District of Columbia; and
- Whereas, U.S. courts have upheld the right to privacy based on the *Bill of Rights* of the U.S. Constitution;¹ and
- Whereas, U.S. courts protect privacy when there is a reasonable expectation of privacy; and
- Whereas, U.S. courts have ruled that when an individual's personal data is shared with a third party or the public, the individual no longer has an expectation of privacy in that data; and
- Whereas, Keeping a library user's personally identifiable information and circulation record absolutely confidential is essential for preserving the library user's expectation of privacy in his or her reading history; and
- Whereas, Many libraries across the country are instituting self-service hold systems that fail to adequately protect library users' confidentiality because the self-service hold systems reveal personally identifiable information linking specific users to specific items; and

Resolution to Protect Library User Confidentiality in Self-Service Hold Practices/2

Whereas, some methods of truncating user names or other personally identifiable information do not adequately protect library users' privacy, nor preserve the legal expectation of privacy, and may violate a state's library confidentiality law; and

Whereas, There are effective solutions that conceal a library user's identity while permitting the library to continue its use of open-shelf, self-service holds, such as the use of pseudonyms, codes, numbers, or other means that mask personally identifiable information; and the use of methods that obscure the identity of library user requests and the items requested through the practice of packaging the items inside an envelope or a reusable bag to hold the item, or wrapping them in a full sheet of paper, or an equivalent option; now, therefore, be it

Resolved, That the American Library Association (ALA):

1. Urge all libraries that implement self-service holds to protect patron identity by adopting practices and procedures that conceal the library user's personally identifiable information in connection with the materials being borrowed;
2. Urge libraries, librarians, and the responsible bodies of ALA to work with vendors to incorporate applications into integrated library systems that enable libraries to conceal a library user's identity in a cost-effective manner.

¹ U.S. Constitution, 4th, 5th, and 9th Amendments and case law, including *NAACP v. Alabama*, 357 U.S. 449 (1958); *Griswold v. Connecticut* 381 U.S. 479 (1965); *Katz v. United States*, 389 U.S. 347 (1967); and *Stanley v. Georgia*, 394 U.S. 557 (1969)

Adopted by the Council of the American Library Association



Keith Michael Fiels

ALA Executive Director and Secretary of the ALA Council

Tuesday, June 28, 2011

In New Orleans, Louisiana

**Resolution to Continue Opposition to the Use of Section 215 of USA PATRIOT Act
and the Use of National Security Letters to Violate Reader Privacy**

- Whereas, Freedom of thought is the most basic of all freedoms and is inextricably linked to the free and open exchange of knowledge and information; and these freedoms can be preserved only in a society in which privacy rights are rigorously protected; and
- Whereas, The American Library Association (ALA) is committed to preserving the free and open exchange of knowledge and information and the privacy rights of all library users, library employees, and the general public; and
- Whereas, ALA opposes any use of governmental power to suppress the free and open exchange of knowledge and information; and
- Whereas, The USA PATRIOT ACT includes provisions such as Sections 215 and 505 that threaten the free and open exchange of knowledge and information; and
- Whereas, Section 215 of the USA PATRIOT Act allows the government to request and obtain library records secretly for large numbers of individuals without any reason to believe they are involved in illegal activity; and
- Whereas, Section 505 of the USA PATRIOT Act permits the FBI to obtain records from libraries with National Security Letters (NSLs) without prior judicial oversight; and
- Whereas, Orders issued under Sections 215 and 505 automatically impose a nondisclosure or gag order on the recipients, thereby impairing the reporting of abuse of governmental authority and abrogating the recipients' First Amendment rights; and
- Whereas, The Foreign Intelligence Surveillance Act (FISA) Court issued more than 220 Section 215 orders between 2005 and 2007, some of which may have been issued to libraries; and
- Whereas, A recent Department of Justice report on surveillance activities for 2010 disclosed a dramatic increase in surveillance of Americans between 2009 and 2010, with the government more than quadrupling its use of section 215 orders compared to 2009; and the FBI more than doubling the number of US persons it surveilled with NSLs, requesting 24,287 NSLs on 14,212 people (up from 14,788 NSLs on 6,114 people in 2009); and

Resolution to Continue Opposition to the Use of Section 215 of USA PATRIOT Act and the Use of National Security Letters to Violate Reader Privacy/2

Whereas, The Office of the Inspector General (OIG) of the Department of Justice reported the issuance of 234,043 NSLs under Section 505 between 2003-2008, at least one of which was issued for library user records; and

Whereas, ALA has repeatedly called on Congress to institute reforms to the USA PATRIOT Act that protect reader privacy and rescind the nondisclosure or gag orders on the recipients of Section 215 and 505 orders for library user records; and

Whereas, Members of Congress have sought to address the concerns of ALA and restore privacy rights by introducing legislation such as the Freedom to Read Protection Act, the National Security Letters Reform Act, and the USA PATRIOT Act Improvements Bill; and

Whereas, Congress reauthorized Section 215 of the USA PATRIOT Act without any reforms and extended the sunset provision until June 1, 2015; now, therefore, be it

Resolved, That the American Library Association (ALA):

1. Continues to support reforms that protect reader privacy and civil liberties, especially the freedom to read without fear of government surveillance.
2. Continues to oppose the use of Section 215 of the USA PATRIOT Act and the use of National Security Letters (NSL) to violate reader privacy.
3. Supports the passage of legislation which includes such reforms as heightened protections for library and bookseller records; judicial review of FISA orders, NSLs and their associated gag orders; and the sunset of the USA PATRIOT Act's NSL authorities, as proposed in S. 1125, the USA PATRIOT Act Improvements Bill.
4. Expresses its thanks and appreciation to the members of Congress who work to protect reader privacy.

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