

**ALA Intellectual Freedom Committee
Report to Council
2014 Midwinter Meeting
Philadelphia, PA
Tuesday, January 28, 2014**

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

INFORMATION

The Intellectual Freedom Manual, Ninth Edition

Steady progress continues on the preparations for the forthcoming ninth edition of the Intellectual Freedom Manual, slated for publication in the first half of 2015. Editor Trina Magi of the University of Vermont has re-imagined and re-designed the manual for use as a practical guide for librarians in the field, and the Intellectual Freedom Committee continues to review and revise ALA's intellectual freedom policies in preparation for the new edition. Revised policies will be circulated in the spring for comment and suggestions.

Privacy Toolkit

Since September 2013, the Intellectual Freedom Committee's Privacy Subcommittee has worked via email and conference call to revise the Privacy Toolkit, which was last revised in 2005. A final draft was delivered to the IFC for review here at the Midwinter Meeting. The new toolkit provides concise and up-to-date guidance for libraries that are creating or revising their privacy policies, and includes a new section addressing library users' privacy and emerging technologies such as e-books and cloud-based services. The IFC thanks Helen Adams and Ann Crewdson, co-chairs of the subcommittee, for shepherding the project to completion, and thanks committee members and volunteers Carolyn Caywood, Barbara Fiehn, Kent Oliver, Dee Ann Venuto, Bradley Compton, Robert Hubsher, Ray James, and Michael Zimmer for all of their hard work on the project. The new toolkit will be available via the ALA website by March 1.

Committee on Legislation Representatives Join IFC Privacy Subcommittee

Privacy is a vital issue for both the Intellectual Freedom Committee and the Committee on Legislation. The Committee on Legislation considered a proposal to establish their own privacy subcommittee, but after discussions with the IFC at the last Annual Conference in Chicago, the decision was made to add a number of COL representatives to the IFC privacy subcommittee to provide focus and efficiency as the COL and the IFC together address the significant privacy issues faced by libraries and librarians.

To that end, the Office for Intellectual Freedom and the Washington Office are working in partnership to address the issues raised by the government's mass surveillance of U.S. persons.

OIF/OITP Google CIPA Project

Work on the joint OIF/OITP project to examine the impact of the Children's Internet Protection Act on its tenth anniversary is nearing completion. An executive summary containing the findings of the July, 2013 symposium on the impact of the Children's Internet Protection Act was released here at the Midwinter Meeting, and OIF and OITP co-sponsored a special panel that reviewed the symposium, its findings, and its recommendations and asked for feedback from members attending the panel. The final full report and recommendations will be released in the spring.

Robert B. Downs Award

This year's recipient of the University of Illinois Graduate School of Library and Information Science's Robert B. Downs Intellectual Freedom Award is DaNae Leu, an elementary school librarian. DaNae defended the picture book *In Our Mothers' House* by Patricia Polacco and worked to return the book to school library shelves after her school administration removed it. Her efforts to preserve students' access to the book led to national media attention and an ACLU lawsuit that concluded when the school district agreed to return the book to its school libraries. The Office for Intellectual Freedom and the Freedom to Read Foundation were pleased to provide support and assistance to the district's librarians and the ACLU as they fought to return the book to the shelves.

The Lemony Snicket Prize for Noble Librarians Faced with Adversity

It is of the opinion of Lemony Snicket, author, reader, and alleged malcontent, that librarians have suffered enough. Therefore he, with the help of ALA's Office for Intellectual Freedom, will establish a new ALA award honoring a librarian who has faced adversity with integrity and dignity intact—pending the approval of the ALA Executive Board and ALA Council. The prize, if approved, will be a generous amount of cash from Mr. Snicket's disreputable gains (\$3,000 + \$1,000 for travel), along with an odd, symbolic object from his private stash, and a certificate, which may or may not be suitable for framing. It is Mr. Snicket's hope, and the ALA's, that the Snicket Prize will remind readers everywhere of the joyous importance of librarians and the trouble that is all too frequently unleashed upon them. Details of the award will be available on the ALA website: www.ala.org/awardsgrants.

PROJECTS

Banned Books Week

For the third year in a row, the ALA hosted the Virtual Read-Out during Banned Books Week (Sept. 22-28). Over 500 readers joined critically acclaimed authors, Khaled Hosseini (*The Kite Runner*) and Markus Zusak (*The Book Thief*). SAGE Publications also participated in the Virtual Read-Out.

In addition to the Banned Books Virtual Read-Out, the sponsors of Banned Books Week have identified outstanding individuals and groups who have stood up to defend the freedom to read by honoring them with the title Heroes of Banned Books Week. Heroes include students, teachers, and librarians from across the country. A listing of the Heroes can be found on www.bannedbooksweek.org/heroes.

Banned Books Week 2014 will take place September 22 – 28. Banned Books Week merchandise, including posters, bookmarks, t-shirts, and tote bags, are sold and marketed through the ALA Store. New to 2014 will be an updated Banned Books Resource Guide. More information on Banned Books Week can be found at www.ala.org/bbooks and www.bannedbooksweek.org.

Choose Privacy Week

Choose Privacy Week will take place May 1 – 7, 2014. Online materials and programming will encourage libraries and librarians to develop programs and resources for their communities that focus on mass surveillance, commercial data mining, and breaches of data privacy. Posters, buttons, and other items addressing both "Freedom From Surveillance" and "Who's Tracking You?" remain available online via the ALA Store. Planned activities for Choose Privacy Week include a programming webinar for librarians and a number of guest bloggers.

ACTION ITEMS

The Intellectual Freedom Committee moves the adoption of the following action items:

CD # 19.1, Resolution on Curbing Government Surveillance and Restoring Civil Liberties
CD # 19.2, Resolution on Expanding Federal Whistleblower Protections

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
Doug Archer (Chair)
Ann Crewdson
Michael Giller
Julius Jefferson, Jr.
Pam Klipsch
Charles Kratz
Jim Kuhn

Pat Scales
Dee Ann Venuto
Mary Elizabeth (Ma'Lis) Wendt
Michael Wright
Audrey Barbakoff (intern)
Deborah B. Gaspar (intern)

Resolution on Curbing Government Surveillance and Restoring Civil Liberties

Whereas the U.S. National Security Agency (NSA) operates multiple classified programs to collect, mine, retain, and share with third parties data on U.S. persons who are not under investigation for criminal activity;

Whereas the data collected by these programs include activities of library users;

Whereas these programs are conducted with minimal oversight and inadequate transparency;

Whereas among recent decisions and study group reports there is no consensus regarding the constitutionality and statutory basis of these programs¹;

Whereas the American Library Association (ALA) is committed to the principles of privacy, open government, governmental transparency, and accountability²;

Whereas the ALA has defended vigorously the privacy rights of library users and supported openness, accountability and governmental transparency³;

Whereas Senator Patrick Leahy (D-VT) and Congressman James Sensenbrenner (R-WI) have introduced the USA FREEDOM Act (H.R. 3361/S. 1599) which

- ends bulk collection of U.S. persons' communications records
- requires court orders to collect U.S. persons' communications under the Foreign Intelligence Surveillance Act (FISA) Amendments Act
- creates new and shorter sunset provisions to ensure proper oversight
- reforms the Foreign Intelligence Surveillance Court
- increases transparency and oversight
- limits the types of records obtainable under Section 215 and National Security Letters and the authority by which they are obtained;

now, therefore, be it

Resolved, that the American Library Association

1. calls upon Congress to pass legislation supporting the reforms embodied in H.R. 3361/S. 1599 as introduced, and upon the President to sign such legislation; and
2. commends Senator Patrick Leahy and Congressman James Sensenbrenner for sponsoring the USA FREEDOM Act, the 143 legislators in the Senate and the House who have co-sponsored it, and the 85 organizations that have endorsed it, as of January 27, 2014.

¹ ACLU v. Clapper (S.D.N.Y.) (*slip op.* December 27, 2013); Redacted FISC October 3 2011; Klayman v. Obama (D.D.C) (*slip op.*, December 16, 2013); Privacy and Civil Liberties Oversight Board, 2014, *Report on the Telephone Records Program*; President's Review Group on Intelligence and Communications Technologies, 2013, *Liberty and Security in a Changing World*

² Article III, *ALA Code of Ethics*, 1939; *ALA Policy on Confidentiality of Library Records*, 1971; *Policy concerning Confidentiality of Personally Identifiable Information about Library Users*, 1991; *Privacy: An Interpretation of the Library Bill of Rights*, 2002; *ALA Resolution on the Retention of Library Usage Records*, 2006; *Resolution on the Need for Reforms for the Intelligence Community to Support Privacy, Open Government, Government Transparency, and Accountability*, 2013

³ *Resolution Reaffirming the Principles of Intellectual Freedom in the Aftermath of Terrorist Attacks*, 2002; *Resolution on the USA PATRIOT Act and Related Measures That Infringe on the Rights of Library Users*, 2003; *Resolution on the Terrorism Information Awareness Program*, 2003; *Resolution on the USA PATRIOT Act and Libraries*, 2005; *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*, 2007; *Resolution on the Reauthorization of Section 215 of the USA Patriot Act*, 2009

RESOLUTION ON EXPANDING FEDERAL WHISTLEBLOWER PROTECTIONS

Whereas in 2003 the American Library Association (ALA) cautioned that the USA PATRIOT Act and related laws, regulations, and guidelines would "increase the likelihood that the activities of library users, including their use of computers to browse the Web or access e-mail, may be under government surveillance without their knowledge or consent"¹;

Whereas the public now knows that the National Security Agency (NSA) has been collecting the telephone call metadata of millions of customers of Verizon Business Services, AT&T, and Sprint pursuant to orders issued by the Foreign Intelligent Surveillance Court (FISC) under Section 215 of the USA PATRIOT Act;

Whereas pursuant to court orders issued by the FISC under Section 702 of the FISA Amendments Act (FAA) the NSA operates programs that collect and retain vast quantities of data on internet usage; and while authorized to target communications of foreign persons, the NSA has admitted that it also collects and stores Internet data from U.S. persons;

Whereas in 2004 ALA affirmed its "support for accountable government and the role of whistleblowers in reporting abuse, fraud, and waste in governmental activities"²;

Whereas in 2011 ALA urged "Congress to pass legislation that expands protections for whistleblowers in the Federal government," and further urged "the U.S. President, Congress, the federal courts, and executive and legislative agencies to defend the inalienable right of the press and citizens to disseminate information to the public about national security issues and to refrain from initiatives that impair these rights"³;

Whereas Presidential Policy Directive 19 of October 10, 2012, prohibits retaliatory actions against federal employees in intelligence agencies but limits such protected communications to superiors within their agency chain of command and relevant Offices of Inspector General, and is exclusively enforced on the administrative level by the intelligence community targeted in a whistleblower's disclosure and does not include judicial review of administrative rulings;

Whereas public access to information by and about the government is essential for the healthy functioning of a democratic society and a necessary prerequisite for an informed and engaged citizenry empowered to hold their government accountable for its actions;

Whereas the ALA values access to documents disclosing the extent of public surveillance and government secrecy, as access to these documents enables the critical public discourse and debate necessary to redress the balance between our civil liberties and national security;

¹ "Resolution on the USA Patriot Act and Related Measures that Infringe on the Rights of Library Users" (2003)

² "Resolution on Securing Government Accountability Through Whistleblower Protection" (2004)

³ "Resolution on Access to and Classification of Government Information" (2011)

Whereas such disclosures enable libraries to support discourse and debate by providing resources for deliberative dialogue and community engagement; and

Whereas the ALA remains concerned about due process and protection for persons who provide such revelations; now, therefore, be it

Resolved, that the American Library Association (ALA) on behalf of its members:

1. urges Congress to amend the Whistleblower Protection Enhancement Act of 2012 to extend existing legal protections for whistleblowers to employees of all national security and intelligence agencies, and to non-federal employees working for civilian contractors;
2. urges Congress to establish a secure procedure by which all federal employees, and all non-federal employees working for civilian contractors, may safely share evidence they have discovered of fraud, waste, or abuse with the appropriate oversight committees of Congress, and directly with the press and the American people, with the protection of legally enforceable rights against retaliation or prosecution;
3. commends the courage and perseverance of federal employees, and non-federal employees working for civilian contractors, who risk their livelihoods, their reputations and their liberty to expose evidence of government fraud, waste, or abuse.