

**ALA Committee on Legislation
Report to Council
2013 Annual Meeting – Chicago, Illinois**

**Vivian Wynn
Chair, ALA Committee on Legislation
July 2, 2013**

At Midwinter 2013, an amended resolution, Council Document #36, Resolution Reaffirming ALA's Support for Whistleblowers, including Bradley Manning..., was referred to Intellectual Freedom Committee (IFC) and Committee on Legislation (COL). IFC and COL recommends *no action* because there are existing policies, including 3 standing resolutions, (CD #20.7, 2004, CD #20.5, 2008, and CD #19.1, 2011) that address the points in Midwinter Council Document #36.

Following extensive discussion and review on the two resolutions referred to IFC and COL Council II during this conference, AC Document #38, Resolution in Support of Bradley Manning, and CD #39, Resolution in Support of Whistleblower Edward Snowden, our committees determined that specific names should not be included in the resolutions.

ALA must stay sharply focused and utilize our resources and political capital to push for change to section 215 of the PATRIOT Act, the Federal Intelligence Surveillance Act (FISA), and other laws that have permitted the mass surveillance of millions of innocent people;

- We should focus on what the revelations have told us about our government, not on the people who have revealed this information;
- The Association cannot know all the implications and facts surrounding the people who have released classified information. As an organization and as committees and individuals, we are not equipped to be judge or jury;
- However, we can make a difference by working to reform the laws and practices surrounding surveillance and open government issues; and to seek a fair system with due process for whistleblowers;
- Policy documents, such as this set of resolutions, are written to sustain the test of time; mentioning individuals, especially in the resolved clauses, is not an appropriate approach for long term policy statements;

Additionally, the Association should not mention specific names in whistleblower statements because it detracts from the ability of ALA to fight for the significant, long term changes that our nation needs.

However, these issues are so important our committees propose a substitute resolution, Resolution on the Need for Reforms for the Intelligence Community to Support Privacy, Open Government, Government Transparency, and Accountability, that incorporates many of the concepts in these other proposals.

The resolution is Council Document # 20.4 & 19.2:

Resolution on the Need for Reforms for the Intelligence Community to Support Privacy, Open Government, Government Transparency, and Accountability

Resolved, that the American Library Association (ALA):

1. Reaffirms its unwavering support for the fundamental principles that are the foundation of our free and democratic society, including a system of public accountability, government transparency, and oversight that supports people's right to know about and participate in our government;
2. In light of present revelations related to NSA's surveillance activities conducted pursuant to orders issued by the Foreign Intelligent Surveillance Court (FISC) under Sections 215 and 702 of the USA PATRIOT Act the American Library Association calls upon the U.S. Congress, President Obama, and the Courts to reform our nation's climate of secrecy, overclassification, and secret law regarding national security and surveillance, to align with these democratic principles;
3. Urges the U.S. Congress and President Obama to provide authentic protections that prevent government intimidation and criminal prosecution of government employees and private contractors who make lawful disclosures of wrong doing in the intelligence community;
4. Calls upon the public to engage in and our members to lead public dialogues discussing the right to privacy, open government and balancing civil liberties and national security;
5. Encourage the public to support bills and other proposals that both secure and protect our rights to privacy, free expression and free association and promote a more open, transparent government and be further resolved, that
6. Expresses its thanks and appreciation to the members of Congress who work to protect our privacy and civil liberties

The second resolution is Council Document # 20.5:

Resolution Urging Congress to Designate the Government Printing Office as the Lead Agency to Manage the Lifecycle of Digital United States Government Information

Resolved, that the American Library Association (ALA):

1. urges Congress to designate the Government Printing Office the lead agency to develop a United States federal government-wide strategy for managing the lifecycle of digital government publications, documents, information, and web sites;
2. urges Congress to authorize the Government Printing Office to develop and administer standards and procedures for the United States federal government which include rules for dismantling sites and archiving web content, including the preservation of all pertinent data protocols, documentation, and software programs for evaluating and manipulating the content for permanent public access;
3. urges Congress require that the Government Printing Office consult with the United States federal publishing agencies, the National Libraries, and professional library and archiving groups in the development of these standards and procedures;
4. urges Congress provide the Government Printing Office sufficient funding to handle the archiving of web content, to perform its duties on an ongoing basis and additional funding as necessary to fully assist agencies when they are forced to decommission a web site.

Endorsed in principle by the Government Document Round Table

Additionally, COL brings to you the following information items:

COL would like to give a special thanks to ALA President Maureen Sullivan for facilitating a Strategy Session for COL members, held on May 5-6 prior to ALA's 2013 National Library Legislative Day (NLLD) in Washington, DC. At this meeting, COL was able to plan and establish strategic goals for the committee in the coming years. Without President Sullivan's support and leadership, COL would not have been able to have this opportunity.

Additionally, COL would like to thank Maggie Farrell as chair and the all of the Federal Depository Library (FDLP) Task Force members who worked over the last year and a half on their report to COL (which can be found on ALA Connect). This 29 page report is a comprehensive response to the guiding questions that COL provided the task force. COL has extended the task force for an additional year in order to allow for their work to continue by garnering feedback to the report and helping to lead both face to face and virtual discussions. The discussion period will end during Midwinter 2014 and a final report will be submitted to COL prior to Annual 2014.

Draft Resolution on Digitization of U.S. Government Documents, Council Document number 39 was referred to COL by Council. COL has reviewed the document and determined that the new FDLP Task Force charge falls within the same spirit of this resolution.

We refer you to the *ALA Washington Office Six-Month Report* that gives you more background information about ALA's federal legislative activities since Midwinter 2013.

Grassroots Subcommittee

The Grassroots Advocacy Subcommittee held two meetings at ALA Annual 2013. The group heard legislative updates from Washington Office staff and from the Advocacy Coordinating Group and School Library Task Force. There was interest among subcommittee members to re-establish a centralized advocacy network with representatives in 50 states to better disperse action alerts. The group also tailored an existing Mobile Commons FAQ so it can be used for the chapters at various state events. If successful, there are plans to tailor the FAQ for other groups like divisions and roundtables. Lastly, the subcommittee plans to help promote the Stephanie Vance advocacy survey to get responses from a diverse sample. It is expected that the survey results will help inform the work of the subcommittee.

Stephanie Vance Advocacy Survey

The Washington Office has been working with advocacy consultant Stephanie Vance to create a special library chapter to her most recent book. As part of this project, the Washington Office, with COL, launched a wide-ranging advocacy survey to assess the challenges facing librarians across the country. The survey seeks to identify:

- The policy and funding issues that library supporters care about;
- Barriers to taking action;
- What motivates supporters to take action
- Strategies that have been effective in delivering results.

The survey was launched in March 2013 and has generated more than 350 responses to date. The Committee on Legislation is committed to doing another round of publicity about the survey to reach more respondents, especially ones that aren't actively involved in ALA or advocacy efforts. After the survey is closed (target date: October 2013), Ms. Vance and the Washington Office will analyze the results and report the findings to Council and other appropriate ALA audiences.

Councilors are encouraged to take the survey by visiting <http://www.districtdispatch.org/2013/03/washington-office-seeking-your-input-on-library-advocacy/>

Broadband and Telecommunications

The Telecommunications Subcommittee met on Saturday of the 2013 ALA Annual Conference. At this meeting, the subcommittee discussed President Obama's announcement of ConnectED, as well as Tom Wheeler's nomination as Federal Communication Commission's (FCC) Chairman and other legislative updates.

The subcommittee spent the rest of the time discussing the future of the subcommittee and determined that it was still important to have a Saturday individual meeting at both Midwinter and Annual conferences. The subcommittee spent the remainder of the time discussing rules and procedures and how the COL Telecommunications Subcommittee works jointly with the OITP Telecommunications Subcommittee.

Copyright

The Copyright Subcommittee held one meeting at ALA Annual 2013. In the wake of House Judiciary Committee Chairman Bob Goodlatte signaling interest in taking up copyright reform, subcommittee members discussed the wide range of copyright issues that are of importance to libraries. The group plans to continue work on a messaging project that strives to make talking about copyright easier for librarians of all types. There was agreement that the subcommittee should play an active role in ensuring librarians are a part of the conversation in the reform process.

Government Information

The Government Information Subcommittee (GIS) held two meetings at ALA Annual 2013. The first meeting was held jointly with the Government Documents Round Table's (GODORT) Legislation Committee. During this meeting, the Government Printing Office's Deputy Public Printer, Mary Alice Baish provided an update and both committees worked on the Resolution urging congress to designate the Government Printing Office as the lead agency to manage the lifecycle of digital United States government information. The resolution was passed by both GIS and the GODORT Legislation Committee.

The subcommittee met again to receive an update from and discuss with the chair of the Committee on Legislation's Federal Depository Library Program Taskforce, Maggie Farrell. The subcommittee their work on regular conference calls.

Privacy, Surveillance and Open Government

There was extensive discussion on these issues during this conference. The sense of the discussions and actions are included in the joint report from COL and IFC.

E-Government Services

The subcommittee on E-Government Services met once during the ALA annual 2013 conference. The members discussed updates needed for the E-Government Toolkit and what activities they should focus on in the coming year. They will be in the process of planning two webinars to help librarians more easily serve their patrons with e-government information. The subcommittee will continue to hold monthly conference calls to their work.

In conclusion, I would like to thank the hard working members of the COL, as well as the expert Office of Government Relations staff. This ends our report at this Annual conference. Thank you for your time and consideration.

Resolution on the Need for Reforms for the Intelligence Community to Support Privacy, Open Government, Government Transparency, and Accountability

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

Whereas "The guarding of military and diplomatic secrets at the expense of informed representative government provides no real security for our Republic;"ⁱ

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

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

Whereas the American Library Association remains concerned about due process for the people who have led us to these revelations;

Whereas libraries are essential to the free flow of ideas and to ensuring the public's right to know;

Whereas since 1939 the American Library Association (ALA) has affirmed the right to privacy in its Code of Ethics, which currently 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";

Whereas in "Principles for the Networked World" (2002) the ALA included among the "principles of privacy" the fact that "privacy is a right of all people and must be protected in the networked world" and the recognition that "the rights of anonymity and privacy while people retrieve and communicate information must be protected as an essential element of intellectual freedom";

Whereas "Privacy: An Interpretation of the Library Bill of Rights" ALA recognized that "privacy is essential to the exercise of free speech, free thought, and free association";

Whereas In 2003 ALA criticized the "USA PATRIOT Act and other recently enacted laws, regulations, and guidelines" on the grounds that they "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;"ⁱⁱ

Whereas since 2010 ALA has sponsored "Choose Privacy Week," a campaign designed to raise public awareness about personal privacy rights by encouraging local libraries to provide programming, online education, and special events to help individuals to learn, think critically and make more informed choices about their privacy, especially in an era of pervasive surveillance; and ALA has created a website, www.ala.org/liberty, that provides substantive information about privacy, surveillance, open government, and overclassification as well as civic engagement tools to facilitate deliberative dialogues to help support libraries and librarians who create opportunities for public dialogues addressing these topics;

Resolution on the Need for Reforms for the Intelligence Community to Support Privacy, Open Government, Government Transparency, and Accountability/2

Whereas the public recently learned that the National Security Agency (NSA) is collecting the telephone call metadata of millions of U.S. customers of Verizon Business Services, AT&T, and Sprint pursuant to an order issued by the Foreign Intelligent Surveillance Court (FISC) under Section 215 of the USA PATRIOT Act; and

Whereas pursuant to a court order issued by the FISC under Section 702 of the FISA Amendments Act (FAA) the NSA is operating a program called PRISM that is collecting and retaining vast quantities of data on internet usage, including internet search histories, email, video and voice chat, videos, photos, voice-over-IP chats, file transfers, and social networking details, from internet service providers in the United States. Though intended to target communications of foreign persons, the NSA admits that it collects and stores Internet data from U.S. persons; now, therefore, be it

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

1. reaffirms its unwavering support for the fundamental principles that are the foundation of our free and democratic society, including a system of public accountability, government transparency, and oversight that supports people's right to know about and participate in our government;
2. in light of present revelations related to NSA's surveillance activities conducted pursuant to orders issued by the Foreign Intelligent Surveillance Court (FISC) under Sections 215 and 702 of the USA PATRIOT Act the American Library Association calls upon the U.S. Congress, President Obama, and the Courts to reform our nation's climate of secrecy, overclassification, and secret law regarding national security and surveillance, to align with these democratic principles;
3. urges the U.S. Congress and President Obama to provide authentic protections that prevent government intimidation and criminal prosecution of government employees and private contractors who make disclosures of wrong doing in the intelligence community;
4. calls upon the public to engage in and our members to lead public dialogues discussing the right to privacy, open government and balancing civil liberties and national security;
5. encourages the public to support bills and other proposals that both secure and protect our rights to privacy, free expression and free association and promote a more open, transparent government; and
6. expresses its thanks and appreciation to the members of Congress who work to protect our privacy and civil liberties.

Adopted by the Council of the American Library Association
Tuesday, July 2, 2013
in Chicago, Illinois



Keith Michael Fiels
ALA Executive Director and Secretary of the ALA Council

Resolution Urging Congress to Designate the Government Printing Office as the Lead Agency to Manage the Lifecycle of Digital United States Government Information

Whereas Federal information produced at taxpayer expense should remain permanently accessible to the public free of charge;

Whereas “In the past half-century, information creation, distribution, retention, and preservation has expanded from a tangible, paper-based process to include digital processes managed largely through computerized information technologies.”
(<http://www.fas.org/sgp/crs/misc/R42457.pdf> p. ii);

Whereas some Federal agencies have created independent web sites and/or have worked in partnership with each other and with external entities to build integrated web sites to share information with the public;

Whereas web archiving is a fundamental part of managing digital government information, there exists an ISO standard for web archive formats (ISO28500:2009, WARC), the preferred format for web sites harvested by the Library of Congress;

Whereas some Federal agency web sites, such as the Census Bureau's *American FactFinder*, provide data and publications only for a specific period of time and make older information unavailable, often without providing an explanation for withdrawing that information or ensuring archival access to it;

Whereas when, due to funding or other reasons, a Federal agency can no longer maintain a web site either in whole or as a partner, this web site is dismantled and the information made inaccessible because no procedures or policies are in place to assure that the data will be transferred to another publically accessible repository, along with appropriate metadata, software applications, or other means for manipulating, analyzing or evaluating the data retrieved;

Whereas organizations, such as the Internet Archive, the California Digital Library and the University of North Texas, are unable to comprehensively archive information found on government agency web sites, but are archiving information only selectively at their own expense and/or with limited connection to the Federal government;

Whereas agencies such as the Government Printing Office (GPO), the National Technical Information Service (NTIS), the National Archives and Records Administration (NARA) and the Library of Congress (LC), are already authorized by law to provide information services to other agencies and should be included in a plan for the disposal or transfer of information in web sites; and

Whereas the National Academy of Public Administration recommended that “Congress should establish a collaborative interagency process, and designate a lead agency or interagency organization, to develop and implement a government-wide strategy for managing the lifecycle of digital government information;” now, therefore, be it

Resolution Urging Congress to Designate the Government Printing Office as the Lead Agency to Manage the Lifecycle of Digital United States Government Information/2

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

1. urges Congress designate the Government Printing Office the lead agency to develop a United States federal government-wide strategy for managing the lifecycle of digital government publications, documents, information, and web sites;
2. urges Congress authorize the Government Printing Office to develop and administer standards and procedures for the United States federal government which include rules for dismantling sites and archiving web content, including the preservation of all pertinent data protocols, documentation, and software programs for evaluating and manipulating the content for permanent public access;
3. urges Congress require that the Government Printing Office consult with the United States federal publishing agencies, the National Libraries, and professional library and archiving groups in the development of these standards and procedures;
4. urges Congress provide the Government Printing Office sufficient funding to handle the archiving of web content, to perform its duties on an ongoing basis and additional funding as necessary to fully assist agencies when they are forced to decommission a web site.

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ⁱ New York Times Co. v. United States, 403 U.S. 713 (1971)

ⁱⁱ "Resolution on the USA Patriot Act and Related Measures that Infringe on the Rights of Library Users," (2003) ALA precedent states "Resolution on Securing Government Accountability through Whistleblower Protection" affirming its "support for accountable government and the role of whistleblowers in reporting abuse, fraud, and waste in governmental activities" (CD#20.7, 2004); and "Resolution Commending the FBI Whistleblower Who Exposed Abuses on the Use of Exigent National Security Letters" which called on Congress to "protect the rights of whistleblowers against retaliation" (CD#20.5, 2008).