WASHINGTON OFFICE SIX MONTH REPORT

ALA Washington Office Activities

ALCo-hosts Reception for new IMLS Director

The ALA Washington Office co-hosted a reception with the American Alliance of Museums to welcome Dr. Kathryn Matthew as the new Director of the Institute of Museum and Library Services. Dr. Matthew was nominated by President Obama on March 10, 2015 to be IMLS Director and was confirmed by the Senate on September 22, 2015. She was sworn in as Director October 1, 2015.

The reception was in a private dining room of the Newseum and we had a four-piece ensemble to play background music. The reception was attended by our Washington supporters including staff and officials from Congress, the Library of Congress, National Archives and other library associations.

Government Officials Meet with ALA leaders

During the Libraries Transform national campaign launch in Washington, ALA President Sari Feldman took part in high level meetings at the Department of Labor (DOL) and at the Library of Congress. DOL officials discussed collaborative opportunities with the ALA leadership through the Workforce Investment program; while at the Library of Congress they met with Acting Librarian of Congress David Mao and Chief of Staff Robert Newlen, who said they welcome the chance to work closely with ALA.

Libraries Transform Launch Generates National Media Coverage

ALA Washington Office pitched several media outlets to cover the national launch by ALA President Sari Feldman of the Libraries Transform initiative. One result was that NBC TV news sent a camera crew who taped an interview with Sari at Thomson Elementary School, one of the four libraries on the October 29 tour. They also taped footage and interviews at the MLK Jr. Public Library. The story was produced and transmitted as a package to NBC affiliates around the country in advance of Thanksgiving telling how libraries transform communities, schools and the lives of library patrons as they provide the resources for a better quality of life. It was carried by NBC affiliates around the country reaching viewers nationwide.

As a follow-up to the national launch, the Chronicle of Higher Education, the leading magazine covering universities and colleges, conducted an on-camera interview with Sari about how libraries are transforming campuses with advanced technologies, training on new software tools
and collaborative learning opportunities. A print version of the “On Leadership” interview accompanied the video and was also published in the December 18 issue of the Chronicle.

ALAs Central Role in Influential New Copyright Coalition

The Washington Office continues to participate actively in Re:Create, the public and private sector coalition dedicated to “rebalancing” copyright law in the public interest that launched with support from Google last spring. Recent activity has included: 1) meeting in private session with John Morris, Associate Administrator and Director of Internet Policy for the National Telecommunications and Information Administration; 2) strongly endorsing broad reform of Section 1201 of the Digital Millennium Copyright Act that requires libraries, researchers and many others to seek exemption every three years from the law’s prohibition on “circumventing” encryption and other “technological protection measures;” and 3) publicly opposing reconstitution of the U.S. Copyright Office as an independent agency while strongly endorsing the Office’s technological modernization. ALA also joined with other coalition members to assure that a December 2 Committee on House Administration hearing on Copyright Office modernization did not evolve into an opportunity for the Register of Copyrights to solicit Committee support for organizationally divorcing her Office from the Library of Congress and, with it, the Librarian’s oversight authority. Legislation to take the Copyright Office out of the Library and establish it as an “autonomous agency” elsewhere in the Legislative Branch, H.R. 4241, was introduced on December 11 by Rep. Tom Marino (R-PA10), with two additional cosponsors.

Libraries Land Significant Expansion of “AV” Exemption from Digital Millennium Copyright Act

In late October, the Librarian of Congress approved a request filed jointly nearly a year before by the Library Copyright Alliance (ALA, ACRL and ARL), educators and academic institutions to expand the permissible use of “clips” from copyrighted motion pictures in several ways within the higher education community and, notably, to extend this “Section 1201 exemption” to include K-12 settings. The Librarian also extended the exemption to Massive Open Online Courses (MOOCs) and to digital and media literacy programs offered by libraries and museums.

ALA Co-Founded Coalition Reaffirms Critical Value of Public Domain, Copyright Limitations

On September 22, as Members of the House Judiciary Committee prepared to meet in Nashville, TN -- the first of several public “listening tours” in cities around the country as part of their ongoing comprehensive review of copyright law -- the Re:Create Coalition issued a strong statement co-drafted by OGR reminding Committee members and the public of the many social and economic benefits of the public domain, as well as of maximizing fair use and other limitations on copyright rights. OGR will continue to work with and through both Re:Create and the Library Copyright Alliance to shape in advance such copyright reform proposals as the Committee and the current Congress may consider before concluding at the end of 2016.

ALA, ACRL, ARL and COSLA file amicus brief in net neutrality case
Continuing joint advocacy begun in early 2014, ALA, ACRL, ARL and COSLA argued in support of the Federal Communications Commission’s (FCC) strong, enforceable rules to protect and preserve the open internet with an *amici filing* on September 21 with the U.S. Court of Appeals for the District of Columbia Circuit. Oral arguments are scheduled for December 4, 2015, in the case of *United States Telecom Association, et al., v. Federal Communications Commission and United States of America*.

**ALA Credited as “Winner” of USA FREEDOM Fight by Major Beltway News Outlet**


**Office of Government Relations**

**School Library Legislation Becomes Law!**

After years of needing change and a decade of ALA advocacy, the Senate and House finally agreed upon a new education bill that the President then signed into law. The Every Student Succeeds Act (ESSA) includes many *school library provisions* that were not present in the previous legislation and, due in large part to ALA’s grassroots efforts, they were accepted by both the *House* and *Senate*. An interview with *Education Week* arranged by ALA’s Washington Office led to Sari Feldman being quoted in a *story* highlighting the favorable positioning for libraries within the language of the new law.

In the bill, school libraries have been explicitly recognized in the legislation as *authorized uses of certain federal funds* under the ESSA.

In early September, a *letter* was sent to the House Committee on Education and the Workforce and the Senate HELP Committee urging all members to support school libraries as both chambers work towards the conference agreement for ESSA reauthorization. Office of Government Relations staff systematically met with staff to Members in both the House and Senate likely to play a role in the conference.

The breakthrough on ESSA came in mid-July with the full Senate’s approval, by the rare *vote of 98-0*, for an *amendment to S. 1177*, the Every Child Achieves Act (a bill to reauthorize ESEA), and S. 1177’s passage by the Senate. Senators Jack Reed (D-RI) and Thad Cochran (R-MS) authored the crucial amendment. S. 1177 must now be reconciled with H.R. 5, the House’s quite different Student Success Act, which contains no similar “school library” provisions. The need for extensive further grassroots efforts was anticipated during the Senate/House negotiation and as the chambers’ joint legislation returns to the House and Senate floors. ALA’s members grassroots efforts paid off for school libraries.

**Federal Funding for Libraries, Policy Riders on Appropriations Bill**
The Omnibus spending bill released by Congress the week of December 14 provided mostly good news for librarians. Congress easily passed, and the President signed, the $1.1 trillion spending package on December 18. The final budget provided a welcome increase for Library Services and Technology Act (LSTA) and Innovative Approaches to Literacy (IAL). LSTA will receive $182,944,000 in FY16 (up from $180,909,000 in FY15), which includes $941,000 in additional funding above FY15 levels for Grants to State Library Agencies, $202,000 in additional funding for Native American Library Services, and $892,000 in additional funding for National Leadership Libraries. IAL will receive $27,000,000 in FY16 (up from $25,000,000 in FY15). (See FY 2016 Library Funding Chart; excel spreadsheet updated on 12/17/15 to reflect numbers in Omnibus spending bill).

Privacy-Hostile Cybersecurity/“Information Sharing” Bill Also Passed as Part of Omnibus

With Senate passage of the Cybersecurity Information Sharing Act (S. 754) or “CISA” in late October, staff to the House and Senate Chairs of relevant Committees had been working to reconcile the chambers’ disparate approaches and multiple passed bills. In early December, however, word reached ALA and other members of the broad coalition working to safeguard personal privacy that the Senate and House Intelligence Committee Chairs had reached agreement on a privacy-invasive bill without adequately consulting with the House Committee on Homeland Security and its more moderate Chairman Michael McCaul (R-TX10).

Together with its allies, as it had the previous summer when precipitous movement on CISA was imminent, ALA contributed significantly to a “Twitter storm” of protest that derailed the then-latest in a series of procedural end runs intended to put CISA on the floor of both houses of Congress. In mid-December, however, a deal with Chairman McCaul was struck paving the way for Speaker of the House Paul Ryan to insert new, reconciled legislation (now called the Cybersecurity Act of 2015) into Congress’ massive omnibus spending bill.

With adoption of the omnibus by both chambers of Congress, and the President’s signature, on December 18, the Cybersecurity Act became law notwithstanding strenuous public efforts by ALA President Sari Feldman, ALA’s Washington Office and our many coalition partners in the private and public sectors to yet again derail action on the measure.

In early August, proponents of S. 754, the privacy-hostile Cybersecurity Information Sharing Act (CISA), strenuously attempted to bring the bill to the Senate floor just prior to Congress’ summer recess. ALA actively promoted and participated in a massive, multi-organization grassroots lobbying effort that produced more than 6 million total communications to every Senate office, successfully stopping action on the bill. When Congress returned from its summer recess, ALA’s vigorous direct and joint grassroots efforts in opposition to CISA resumed.

Progress Made Toward Update of Electronic Communications Privacy Act (ECPA)

As previously reported in District Dispatch, despite enormous bi-partisan support for the past several years, bills to meaningfully reform ECPA have been bottled up in the House Judiciary Committee. Until recently, despite extraordinary backing (at this writing 306 members of 435 have formally cosponsored the bill), H.R. 699 was no exception. On December 1, however, the House Judiciary Committee held a long-sought and contentious hearing on the bill at which proponents repeatedly pressed the bill’s principal antagonist – Judiciary Committee Chairman
Bob Goodlatte (R-VA6) -- to immediately bring it before the Committee for an “up or down” vote. The bill, if passed, finally would require law enforcement authorities to obtain a judicial warrant based on probable cause to obtain the content of personal emails, texts, electronic files, photos and virtually any other private and electronically stored data. Under current law, in most cases, only a subpoena is needed to get such material after it’s more than six months old. ALA has been especially active in coalition with other public and private sector groups on ECPA reform, both in the current Congress and for many years. H.R. 699’s next step is currently unclear.

OGR Gets Google Grants to Boost Federal Advocacy, Issue Awareness by Key Legislators

OGR has received $25,000 through Google’s Washington-based policy office to underwrite two initiatives. The first will be a series of approximately ten 3-5 minute “Federal Advocacy 101”-style videos to be jointly written and produced in calendar year 2016 with the Harry Potter Alliance and jointly “marketed” to that influential grassroots group’s members in the 13 – 22 age cohort. The second will fund approximately four to six “roundtable” events in 2016 at prominent 21st century libraries across the country. Each will focus on a single issue theme, such as balanced copyright, and will bring together a key Member of Congress who represents the host library, allied local community organizations (or potential allies), and members of the public for a broad discussion and informal lunch or reception.

Committee on Legislation Successfully “Retreats” to Washington

In early October, the Office of Government Relations welcomed the Committee on Legislation back to Washington for a hoped-for annual retreat. The two days of meetings featured in depth issue briefings by OGR staff, guest presentations by senior education staff to Sen. John Cornyn and senior privacy counsel for coalition partner Google. It also featured a lunch briefing at Google’s Washington offices on the origins and agenda of Re:Create, the broad copyright coalition co-founded by ALA.

Revised Council Resolution Regarding Mass Surveillance Clears Joint Body Working Group

A Working Group co-chaired by Committee on Legislation (COL) Chair Ann Ewbank and her Intellectual Freedom Committee (IFC) counterpart, Pam Klipsch, succeeded prior to Thanksgiving in reconciling and revising various versions of a Council resolution in opposition to mass surveillance considered, but not adopted, at ALA’s 2015 Annual Conference in San Francisco. Together with other members of the Working Group representing SRRT, the COL and OIF delegates have vetted the draft language of a revised resolution with their respective Committees (as have SRRT’s delegates). It is the Working Group’s intention to share the draft with the Council listserv prior to conference and, potentially, to discuss it at Council Forum prior to discussing and formally adopting the consensus draft as a joint Resolution of COL and IFC to be presented to Council for consideration at Midwinter in Boston. The Working Group’s efforts were collaboratively supported by Deborah Caldwell-Stone of OIF and Adam Eisgrau of OGR.

ALA Joins Amicus Brief in Potentially Landmark Appellate Court Case to Protect “Metadata”
Under U.S. Fourth Amendment privacy law, a warrant is generally required for law enforcement to listen to the “content” of a protected communication. The judicially-created “third party doctrine,” however, holds that no such warrant is required to obtain “metadata” – such as telephone calling records – associated with that conversation. It is such metadata that the government collected in bulk under Section 215, the “library provision,” of the USA PATRIOT Act. In early November, ALA and the Freedom to Read Foundation joined the Brennan Center for Social Justice, Electronic Privacy Information Center (EPIC), and the National Association of Criminal Defense Lawyers (among others) in filing an amicus curiae brief asking the U.S. Court of Appeals for the Ninth Circuit to repudiate the third party doctrine and to reverse a lower court’s ruling in United States v. Moalin. In it, ALA contends that arguing that the National Security Agency’s (NSA) systematic surveillance and collection of communications metadata, such as phone numbers dialed and call durations, violates the Fourth Amendment right to privacy.

Federal Info Resource Policy Updated

The document from the Office of Management and Budget (OMB) that establishes policies for federal information resources, A-130 Circular, Managing Information as a Strategic Resource, has been updated for the first time since 2000. The ALA joined with 10 other likeminded open government institutions in comments to the OMB.

ALA Participates in Workforce Innovation and Opportunity Act State/Local Partners Meeting

ALA joined in a November Workforce Innovation and Opportunity Act (WIOA) Partners Roundtable to strengthen partnerships between ALA, state and local partners across program areas and levels of government that are essential to serving current and future workers and businesses. WIOA, signed into law July 2014, provides libraries and partners the opportunity to play a significant role in publically-funded workforce development system. ALA joined with COSLA to file comments with the Departments of Education and Labor outlining the essential role libraries play in workforce development (http://www.districtdispatch.org/wp-content/uploads/2015/06/ALA-comment-on-the-WIOA-NPRM-Final.pdf). Final WIOA guidelines are not expected until next year.

ALA Actively Working for Maximum Public Access to CRS Reports

As a matter of policy, the Congressional Research Service notoriously has held its taxpayer-funded reports prepared at the request of Members of Congress confidential, even when those reports broadly address topics of general interest. This fall, together with other prominent organizations dedicated to maximum public access to information, ALA has mounted a concerted lobbying campaign to legislatively compel CRS to make all such reports public promptly except in appropriate and limited circumstances. Legislation is expected to be introduced early in the first quarter of the New Year. Meantime, the issue is getting traction in the private sector and in the press, as well as among Members of Congress.

Librarians of Congress Past and Future
As reported in District Dispatch, legislation to limit the Librarian of Congress’ tenure to a renewable term of 10 years was rapidly introduced in and passed overwhelmingly by Congress in early November. Efforts to replace Dr. James Billington, the previous occupant of the position, continue in high gear behind the scenes with an Administration nomination expected relatively early in the New Year. ALA has urged the President, and the Washington Office continues to encourage White House staff, to nominate a professional librarian for the office. Most recently, Dr. Billington has been named Librarian of Congress Emeritus, which provides him some administrative support for Library of Congress matters.

Student Privacy Threat Stripped from Intelligence Authorization Legislation

Prior to Congress’ August recess, language was inserted in the Intelligence Authorization Act for Fiscal Year 2016 (S. 1705) that could have required librarians (including school librarians) to report suspected “terrorist activity” of which they had “actual knowledge.” Confirmation was received late on September 21 that this dangerously ill-defined provision, which was quickly and publicly opposed by ALA and its coalition partners, has been struck from the bill.

ALA Urges House Commerce Committee to Close the “Homework Gap”

In late September, ALA joined coalition partners in a letter to the House Energy and Commerce Committee supporting H.R. 3582, The Digital Learning Equity Act of 2015. This legislation, introduced by Rep. Peter Welch (D-VT) and co-sponsored by Rep. David McKinley (R-WV), seeks to close the “homework gap” for students lacking sufficient digital resources during non-school hours. The bill explicitly references libraries’ participation in the efforts it authorizes. Companion legislation, S.1606, was introduced in the Senate by Sen. Angus King (I-ME) last June. OGR staff will continue to meet with Members of Congress in support of both bills.

ALA Joins Amicus Brief in Wikimedia Foundation v. National Security Agency

After close coordination by the Offices of Intellectual Freedom and Government Relations, in early September ALA joined with the Electronic Frontier Foundation, American Booksellers Association, Association of Research Libraries, Freedom to Read Foundation and IFLA in filing an amicus brief in support of Wikimedia in its suit against the National Security Agency. The case was dismissed before the federal District Court in Maryland. It challenged on First Amendment grounds the NSA’s “Upstream” surveillance program’s claimed legality under Section 702 of the Foreign Intelligence Surveillance Act.

Open Access Legislation Clears Key Senate Committee

After many years of effort by ALA members and the open access community, the Fair Access to Science and Technology Research Act of 2015 (FASTR) was approved unanimously in late July by voice vote of the Senate Committee on Homeland Security and Governmental Affairs. With the strong backing of Committee Chair Ron Johnson and the Senate’s second-ranking Republican, John Cornyn (the bill’s lead sponsor), S. 779 is expected to come before the full Senate before year’s end. Most recently the bill received a score of zero from the Congressional Budget Office, meaning that the bill will not cost the government money to implement if enacted. This significant ruling by CBO, it is hoped, will assist OGR in its ongoing efforts to
secure additional support for FASTR from Members of Congress who have not yet taken a position on the bill.

OMB needs to protect access to government information

In an effort to ensure continued access to government information during a federal government shutdown, a letter was sent to the director of the Office of Management and Budget on September 22 to remind him of the resolution that was passed by ALA Council in January 2014. The Resolution on Maintaining Government Websites During a Government Shutdown was created after the government shutdown in 2013 when there was inconsistent access to government information on federal websites. It calls for OMB to “develop guidance to federal agencies stating that, in the event of a government shutdown or other emergency, continued access by the public to essential information on agency websites is an “excepted” activity; that such activity would warrant the retention of paid personnel or the obligation of funds to assure access; and in the absence of such a guideline, to direct each agency to communicate the status during a shutdown of its website to the Government Publishing Office (GPO) or another appropriate agency, which would widely communicate to the public and update information about which agencies are maintaining their websites, which are updating them and which are closing them.”

Office for Information Technology Policy

ALA Celebrates Google Book Search Win for Fair Use

After nearly a decade of litigation (and ALA policy advocacy), the Second Circuit Court of Appeals upheld the district court’s summary judgment that the Google Books Search is a transformative fair use. The court ruling included a statement that “the exclusive rights of copyright do not include the exclusive right to supply information” about books through the searchable index of digitized texts. Even though copyrighted works were scanned in their entirety, the original, creative expression—that which is protected by copyright—is not infringed.

ALA Launches E-rate Clearinghouse

With the Georgia Public Library Service and the Chief Officers of State Library Agencies (COSLA), ALA OITP launched the E-rate Clearinghouse in early November. The idea for the clearinghouse emerged from the ALA E-rate Taskforce in thinking about how to help libraries take advantage of E-rate program changes to support network infrastructure upgrades. The website serves as an aggregator for resources to assist libraries in understanding broadband planning and E-rate funding. The project is funded in part by the Institute of Museum and Library Services (IMLS). It continues ALA’s and COSLA’s work to best leverage federal E-rate opportunities, which we have advocated for by urging the FCC to strengthen library broadband capacity to serve our communities.
ALA Issues Statement, Meets with Major Publishers in NY

In December, President Sari Feldman and other ALA leaders met with senior corporate executives and library marketing executives of Simon & Schuster, HarperCollins, and Penguin Random House. ALA’s most specific request was to expand the options for library ebook lending business models to give libraries (and subsequently readers) more choice. This visit represents ALA’s ninth such delegation effort over the last several years. In light of the focus on choice, ALA responded with mixed reviews to new harmonized licensing terms for Penguin Random House—welcoming price reductions for perpetual access and the opportunity to obtain Penguin titles in perpetuity, but expressing disappointment in losing the short-term licensing option previously available from Penguin.

OITP Highlights Library 3D Printing Leadership for Policymakers in New Report

*Toward A More Printed Union: Library 3D Printing Democratizes Creation* urges public and private sector leaders to leverage this leadership to unlock the full potential of 3D printing technology for all Americans. As the paper argues, library 3D printing yields benefits across a gamut of disciplines – from education to entrepreneurship and economic development. The paper, authored by Charlie Wapner of ALA’s Office for Information Technology Policy (OITP), is the third 3D printing publication released by OITP.

ALA Seeks Balance in Joint Strategic Plan on Intellectual Property Enforcement

Responding to a request for input on the Joint Strategic Plan on Intellectual Property Enforcement, the American Library Association (ALA) submitted formal comments to the U.S. Intellectual Property Enforcement Coordinator through the Library Copyright Alliance (LCA) and additional informal comments. The comments argue that the 2016 Joint Strategic Plan should: 1) attempt to strike the right balance between protection and access; 2) base policies on data rather than beliefs; 3) focus on eliminating counterfeit goods that threaten health and safety; and 4) promote the availability of lawful content through implementing the Administration’s public access and open education policies. ALA, ACRL and ARL are LCA members.

ConnectHome Courtesy of the U.S. Department of Housing and Urban Development

After months of planning and coordinating, the U.S. Department of Housing and Urban Development (HUD) and the White House launched the ConnectHome initiative, with ALA as a named national partner. The initiative seeks to extend broadband access to public housing through 28 pilot cities; libraries provide digital literacy training and access to the varied user services on the internet. Susan McVey, state librarian of Oklahoma (and member of the Policy Revolution! advisory committee), represented ALA at the national launch in Durant, Oklahoma. OITP Deputy Director Larra Clark and Metropolitan New York Library Council Director Nate Hill also participated in a national convening of ConnectHome national partners and local government and housing leaders from the pilot communities at the end of August. Local convenings are planned over the coming months, and OITP continues to coordinate with local libraries across the country.

Lifeline Comments
ALA submitted comments on the Lifeline program proceeding to the Federal Communications Commission (FCC). We supported the FCC’s proposal to extend the program to provide subsidies for broadband communications for low-income people, not just for phone service, and emphasized how libraries help people make use of technology. ALA recommended that libraries should be eligible for Lifeline funds for WiFi hot spot lending programs when patrons are eligible for the Lifeline program.

**Congress members support student library cards**

OITP staff and WO press officer worked with ALA President Sari Feldman and her staff to develop an op-ed from two of her members of Congress, which WO then successfully placed in *The Hill*. The strategy reflects work underway with the Policy Revolution! initiative and Sari’s Libraries Transform campaign to position libraries as essential—with a particular focus on national policymakers. The placement also builds on the longstanding work of ALA’s Public Awareness Office to promote Library Card Sign-up Month nationally and the effort of IMLS (with ALA and ULC) to increase K12 student library card access.

**Recent OITP speaking engagements**

- 3D and IP: OITP policy analyst Charlie Wapner was a featured speaker at the 3D Printing Day held by the Northern Virginia Center of Virginia Tech and at a national Convening for Good: On the Frontier of 3D Printing for Accessible Education.
- Wi-Fi: OITP deputy director Larra Clark spoke on a panel at the Internet Caucus program on “The Past and Future of WiFi.”
- Future of the MLS: OITP director Alan Inouye presented as part of a webinar on the University of Maryland’s initiative for the Petroleum Abstracts Industry Advisory Council.
- Policy and Librarianship: OITP director Alan Inouye presented as part of a panel to the Leadership Fellows of the Association of Academic Health Sciences Libraries

**Other Selected OITP Activities**

- ALA awarded Kathleen DeLaurenti the 2015 Robert L. Oakley Memorial Scholarship, which supports research and advanced study for librarians in their early-to-mid-careers who are interested and active in public policy, copyright, licensing, and open access. DeLaurenti serves as the arts librarian at the College of William & Mary.
- The special reports in the just-released 2015 *Library and Book Trade Almanac* (Bowker Annual) focus on the future of libraries (school, public, & academic) and include a number of ALA-affiliated authors such as Barbara Stripling, Chris Harris, Robert Wolven, Jamie LaRue, Miguel Figueroa, and Larra Clark. Alan Inouye served as consulting editor.
- The CopyTalk webinar series held a session on August 6th that featured Sandra Enimil, Ohio State Univ.; Pia Hunter, University of Illinois at Chicago; and Cindy Kristof, Kent State Univ.