



# FREEDOM TO READ FOUNDATION NEWS

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Barbara M. Jones, Executive Director • Kent Oliver, President

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## FTRF files suit to stop Alaska censorship law

On August 31, the Freedom to Read Foundation joined with the Alaska Library Association, local booksellers, and other national free speech organizations to file a constitutional challenge to Alaska's new "harmful to minors" law. The law, signed in May by Governor Sean Parnell and effective July 1, imposes criminal penalties (including up to two years in prison) on the distribution of constitutionally protected material on the Internet, and also could be used to prosecute bookstore owners, video retailers, and librarians if they sell or lend anything deemed "harmful" to a minor, even if they were not aware of the sexual nature of the content.

Parts of the law are similar to laws that have been struck down in Virginia, Vermont, New Mexico, and several other states, as well as to the Communications Decency Act and Child Online Protection Act, both of which were found to be unconstitutional. Although couched in language protecting children from predators, the actual law will have the effect of criminalizing speech intended for adults that is inarguably constitutionally protected. Moreover, the law chills the speech of content providers on the Web by limiting content to that which is only appropriate for the youngest minors.

Even if this law is struck down, Alaska has other laws that allow for the prosecution of adults who attempt to lure minors.

FTRF's motion for preliminary injunction argues that the law is overbroad, is not the least restrictive means of achieving the compelling governmental purpose of prosecuting sex offenders, and violates the Commerce Clause because it regulates communications that take place wholly outside Alaska. The suit, *ABFFE v. Sullivan*, is now before a federal judge in Alaska. On September 22, the state filed a brief in opposition to plaintiffs' motion for preliminary injunction.

Learn more about this case, including the text of the bill and both the plaintiffs' and the defendants' briefs, at <http://mediacoalition.org/ABFFE-v.-Sullivan>.

### Inside this issue of *FTRF News*...

- Judith Krug Fund grants announced, p. 2
- Victory in Oregon, p. 3
- Supreme Court to hear video game case, p. 3
- Report from 2010 Conable Scholarship winner, Aubrey Madler, p. 5-6

## Why your FTRF membership matters

### FTRF offers hope, power and action in defense of the First Amendment

*By Jim Neal, Chair, FTRF Membership Committee*

The annual Freedom to Read Foundation membership drive is underway, and your continued (or new) support is vital. I firmly believe that every librarian, library organization, publisher, bookseller, and concerned U.S. resident should invest in the work of the Foundation by being a member.



The Foundation was established in 1969 as the First Amendment legal defense organization affiliated with the American Library Association. Through decades of the enlightened and powerful leadership of director Judith Krug and new director Barbara Jones, a long history of committed and effective presidents and their boards, and the skillful work of attorneys and partner organizations, the Foundation has championed and advanced freedom of speech and the press, protected the public's right of access to information and materials stored in and made available through the nation's libraries, fought against efforts to remove materials from library collections and to block access to networked information on library computers, and safeguarded the ability of libraries to serve their users without violations of privacy and confidentiality.

The Foundation provides grants to individuals and groups to assist them in legal cases and defense of the freedom to read, and directly participates in litigation dealing with First Amendment challenges. Much of the landmark legal action that has strengthened and defended intellectual freedom in our courts has involved the Foundation. And the assaults on our basic freedoms will only accelerate under the impact of new technologies and concerns about national security.

If you are reading this article, you likely are investing already in the work of the Foundation. Your support is certainly applauded and appreciated, and we ask that you sustain and perhaps increase your level of giving.

Membership dues are by far the largest source—over 75%—of the Freedom to Read Foundation’s annual revenue. This means that your support is vital to the continued successes of the Foundation. It is your support that allows us to participate in the key First Amendment court cases such as those detailed in this newsletter. And it is your support that allows us to provide assistance to librarians and others defending the right to read.

The two primary forms of Foundation membership are individual and organizational. Unfortunately, over the last several years we have seen a drop-off in both categories, just at the time when the Foundation needs expanding support for its work. The FTRF Membership Committee is currently developing strategies to boost our membership numbers both within and beyond the library community.

How can you help? If you are not a member, consider joining. If you are, encourage others to join. The levels of membership are student (\$10+), regular (\$35+), contributing (\$50+), sponsor (\$100+), patron (\$500+), and benefactor (\$1,000). Encourage your library, your ALA chapter, your organization to join. Organizational dues range from \$100 to \$1,000. For more information on membership, or to join or renew your membership, visit [www.ftrf.org/joinftrf](http://www.ftrf.org/joinftrf).

Contact me ([jneal@columbia.edu](mailto:jneal@columbia.edu)) or Jonathan Kelley ([jokelley@ala.org](mailto:jokelley@ala.org)) if you have questions or need information about how to invest and participate in the work of the “freedom to read.” We build hope for the preservation of the First Amendment, and achieve power and influence through our collective action.

*Jim Neal is Vice President for Information Services and University Librarian at Columbia University.*

## Judith Krug Fund awards seven grants for Banned Books Week events

The Freedom to Read Foundation last month disbursed seven grants for Banned Books Week activities via its Judith F. Krug Memorial Fund. The grants funded local “Read-Outs” and other activities intended to celebrate the freedom to read and bring attention to Banned Books Week and ongoing efforts to censor books.

Six of the organizations received \$1,000 grants, while the **Iowa City Public Library** received a \$2,500 grant for its “Carol Spaziani Intellectual Freedom Festival,” which included lectures, a film screening, their first-ever Read-Out, and a “Rolling Read-Out” during the University of Iowa’s Homecoming Parade.

Recipients of the \$1,000 grants were:

- **ACLU of Pennsylvania, Pittsburgh** (Judith Krug’s home town), for the 15th “fREADom: A Celebration of the Right to Read,” at which local personalities and performance groups read from challenged books and attendees participated in a Banned Songs Sing-Along.
- **Canisius College, Buffalo, N.Y.**, for “Read-Out! It’s Your Right.” Part of the library became “Bughouse Square East,” in honor of Chicago’s famed free-speech zone.
- **Dayton (Ohio) Metro Library – East Branch.** This inner-city library provided “Book Club in a Box” kits to local school libraries to study Lois Lowry’s frequently challenged classic *The Giver*.
- **St. Catharine College, Ky.**, for its third annual “Read-Out!” Attendees received free Banned Books Week merchandise and painted commemorative mugs inspired by the banned and challenged books.
- **Santa Monica Public Library, Calif.**, for “Join the Banned: Celebrate Your Freedom to Read.” Authors, actors, and other celebrities and community members read banned and challenged books. Other features included a photo booth called “Get Booked,” where participants got a mug shot-style photo with them and a banned book; an acting scene by local teens; and a closing concert by the Harry Potter-inspired band, the Remus Lupins.

- **Takoma Park Maryland Library**, which has a “Banned Books Club” for middle and high school students and a “Junior Banned Books Club” for 3<sup>rd</sup>–5th graders. The focus of their “Read-Out!” was children’s and middle grade books, and the Krug Fund grant allowed them to purchase books to hand out to attendees, many of whom come from low-income families.

The Judith Krug Fund began in 2009 after the death of FTRF Executive Director Judith Krug. Money donated to FTRF in her honor supports programs to increase awareness of intellectual freedom in the library community and among the general public. Visit [www.ftrf.org/krugfund](http://www.ftrf.org/krugfund) for details or to donate.

## Victory in Oregon: Ninth Circuit overturns harmful to minors law

On September 20, the Ninth Circuit Court of Appeals struck down two Oregon laws criminalizing the dissemination to minors of material containing descriptions or depictions of sexual activity. The lawsuit, *Powell’s Books, Inc. v. Kroger*, was filed in April 2008 by the Freedom to Read Foundation, local plaintiffs (including FTRF trustee Candace Morgan), and other members of the Media Coalition. Later that year, the district court ruled the statutes constitutional; plaintiffs then appealed to the Ninth Circuit.

The Ninth Circuit found the laws unconstitutionally overbroad, as they would apply to material that was clearly constitutional for minors. The court identified sex education books, Judy Blume’s *Forever*, Margaret Atwood’s *A Handmaid’s Tail*, and graphic novels as materials that could be criminalized under the law.

The court ruled that nothing in the statutes protected booksellers and libraries against such prosecutions. In its defense, the state claimed that it would not prosecute the examples put forth by plaintiffs. However, the Ninth Circuit said such a promise not to use a statute in a certain way doesn’t cure a statute that otherwise violates the First Amendment.

An audio recording of the Ninth Circuit oral argument can be found at [www.mediacoalition.org](http://www.mediacoalition.org).

## Supreme Court to hear California video game case

### Freedom to Read Foundation files *amicus*

On November 2, the U.S. Supreme Court will hear oral arguments in *Schwarzenegger v. EMA*, the case involving California’s law banning the sale or rental to minors of certain “violent” video games. This marks the first time a case of this type has reached the highest court.

On September 17, the Freedom to Read Foundation joined with other members of the Media Coalition to file an *amicus* brief in support of the Ninth Circuit’s decision to uphold a lower court’s ruling that found the 2005 law unconstitutional. To date, every court that has considered the constitutionality of such laws has struck them down.

The Court posed two questions to the parties:

1. Does the First Amendment bar a state from restricting the sale of violent video games to minors?
2. If the First Amendment applies to violent video games that are sold to minors, and the standard of review is strict scrutiny, under *Turner Broadcasting System, Inc. v. FCC*, is the State required to demonstrate a direct causal link between violent video games and physical and psychological harm to minors before the State can prohibit the sale of the games to minors?

FTRF’s brief urged the Supreme Court not to create a new exemption to the First Amendment for violence. The brief argued, “According First Amendment protection to textual descriptions and visual depictions of violence recognizes the fact that such descriptions and depictions, both fictional and real, have always been a part of our civilization’s art, history, and literature, both for children and for adults,” including classic fairy tales and TV newscasts.

Including FTRF’s *amicus* brief, 27 briefs were filed in support of the Entertainment Merchants Association and the Entertainment Software Association, including one by the Attorneys General of Arkansas, Georgia, Nebraska, and several other states. Four briefs were filed in support of the State of California, including one by Common Sense Media and one by the Attorneys General of Louisiana, Illinois, Connecticut, Texas, and seven other states.

## Robert O'Neil receives Roll of Honor Award

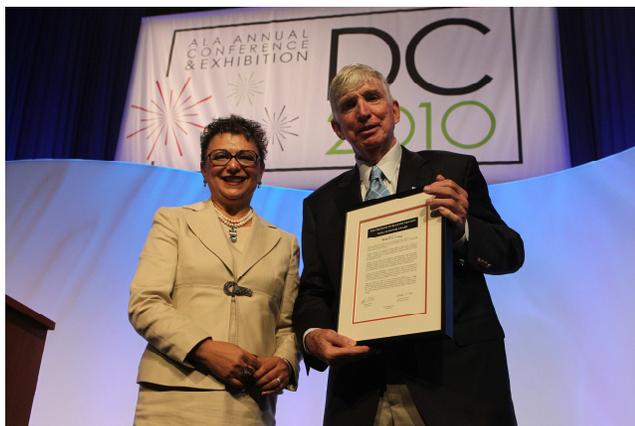
On June 26, Robert M. O'Neil, director of the Thomas Jefferson Center for the Protection of Free Expression at the University of Virginia (UVA), was presented with the 2010 FTRF Roll of Honor Award at the Opening General Session of ALA's Annual Conference in Washington, DC. O'Neil has been a staunch ally of the Freedom to Read Foundation for decades. He began his legal career as a clerk for Supreme Court Justice William J. Brennan, Jr., in 1962, and from there held a number of positions in academia, including president of UVA.

Here is the text of his citation:

Thank you, Robert M. O'Neil, for your unstinting dedication to the First Amendment to the United States Constitution, and to the principles of free access to information and free expression that underlie it.

Thank you, Robert, for founding the Thomas Jefferson Center at the University of Virginia. Through your work there, and particularly with the "Jefferson Muzzles," you have brought attention to ongoing abridgements of speech and the press—across the ideological spectrum.

Thank you for your support of the Freedom to Read Foundation over four decades, including providing the keynote address at the Foundation's 10<sup>th</sup> Anniversary celebration. Thank you for your collaborations with FTRF in major legal briefs, and for recognizing the pioneering work of founding FTRF Executive Director Judith Krug with the Thomas Jefferson Center's prestigious William J. Brennan Award.



ALA President Camila Alire presents Robert O'Neil with the Roll of Honor plaque during the 2010 ALA Annual Conference Opening General Session. Curtis Compton/Cognotes

Thank you for your commitment to academic freedom, which is an indispensable component of intellectual freedom. Your work with the American Association of University Professors, your stewardship of the University of Virginia and University of Wisconsin, and your writing and speaking on academic freedom have made you one of the foremost experts and leaders on the subject.

Thank you, Robert M. O'Neil, for your commitment to education, the arts, new technologies, and other means of communicating the value of free speech. Thank you for employing such great humor and generosity of spirit in carrying out your life's work. You have helped expand the legal basis for the rights we work to defend. It is our distinct pleasure to add your name to the Freedom to Read Foundation's Roll of Honor.

*Kenton Oliver*  
President

*Barbara M. Jones*  
Executive Director

Washington, D.C. • June 2010

## Submit your nominations for the 2011 FTRF election

Nominations are being accepted for the 2011 Freedom to Read Foundation Board of Trustees election. Six positions on the FTRF Board of Trustees will be filled in the election to be held April 1–May 1, 2011. The persons elected will serve a two-year term, beginning at the close of the 2011 American Library Association Annual Conference, and continuing through the end of the 2013 ALA Annual Conference. Trustees are required to attend two one-day meetings per year, which are held in conjunction with the ALA Annual Conferences and Midwinter Meetings.

Robert P. Doyle chairs the Nominating Committee. The other committee members are Jim Neal and Judith Platt.

Only FTRF members are eligible to seek election to the Board. Nominations should be sent by December 17, 2010 to: Freedom to Read Foundation, Attn: Robert P. Doyle, 50 E. Huron St., Chicago, IL 60611. You also may e-mail nominations to [frf@ala.org](mailto:frf@ala.org). Alternatively, FTRF members may be slated for candidacy by petition by submitting 25 signatures of current FTRF members in support of the candidate. Names of petition candidates, and the required signatures to support each, must be received by the FTRF Executive Director no later than January 31, 2011.

## Other News

### Conable Scholar report

*Aubrey Madler, an information specialist with the University of North Dakota's Center for Rural Health, was the third recipient of FTRF's Gordon M. Conable Conference Scholarship. The Conable Scholarship provided for Madler's expenses to attend the 2010 ALA Annual Conference in Washington, DC. Per the terms of the scholarship, Madler provided this report to the FTRF Board. Madler's blog posts during the conference can be found at <http://www.oif.ala.org/oif>.*



During the past few years, I have learned a lot about and taken a great interest in the principles of intellectual freedom and what a great gift it is that we provide for our communities. Many North Dakota libraries are located in rural communities and oftentimes only one librarian staffs the library, making it difficult to travel to conferences and to partake in training opportunities. Electronic means of communication and information dissemination is an integral part of their networking capacity.

I am a current member of the North Dakota Library Association Intellectual Freedom Committee. Through this role, I maintain a blog that serves as a dissemination tool for news and issues surrounding intellectual freedom, and I have read many articles about banned materials, censored information, and challenges to our basic rights. Other countries are not so lucky, as they have strict censorship practices for electronic material (the China/Google topic is a prime example). I consider the right to information an entitlement that our Constitution promises and I find it extremely important to preserve this right for American citizens.

My goals while attending the conference were to learn more about privacy, censorship, and free speech rights as they relate to library services. I also wanted to learn about ways to share this information to libraries in North Dakota through blogs and other electronic means. I hoped for opportunities to exchange information with colleagues, develop contacts across state lines, and build relationships with a mentor that can help me contribute on behalf of intellectual freedom issues as I venture further into my professional career.

By the conference's close, I had achieved these goals and more. I felt so welcomed by the Office for Intellectual Freedom staff and by members of FTRF, the Intellectual Freedom Committee, and the Intellectual Freedom Round Table (of which I am also a member). Everyone was eager to mentor me and to discuss ideas and issues regarding the First Amendment. I came away from the conference with the confidence to continue and enhance my educational and advocacy work through blogging.

I was glad to sit in on several business meetings. In addition to learning about issues facing various types of libraries, I got a feel for what each of the groups does and how I might get involved with some of them. For example, I found that these issues encompass more than just libraries as attorneys also serve actively on the FTRF. They work to maintain our right to read in court and by offering legal council to libraries.

The Merritt Fund plays an invaluable role in supporting libraries facing intellectual freedom threats. At the Merritt Fund 40th Anniversary dinner, I heard an emotional story from a librarian who was under scrutiny for hindering an investigation because she would not relinquish computer use records. It is unfortunate that we need this fund, but it is a resource for those standing up for intellectual freedom and privacy. I hope one day the Merritt Fund is no longer necessary, but until then I will be a contributor and will share information about the fund with librarians and First Amendment advocates.

I sat in on an IFC meeting as they discussed an important new interpretation of the Library Bill of Rights: Prisoners' Right to Read. I appreciated the complex process undergone to disambiguate terminology and phrasing so that the document best represented its intent. I hadn't before considered the freedom to read issues faced by the incarcerated, and I am glad this group took the initiative to make sure librarians serving prisoners have a guide to follow and a support system in place.

Another discussion during the IFC meeting regarded placing labels on books. The IFC looked at Common Sense Media's grid, used by online booksellers to label books by their content. One might see this form of labeling as a form of censorship by authoritative entities, thus affecting the book's success; it has the potential to prevent minors from accessing information on various ideas as well as the potential to inflict self-censorship. The IFC is in the process of exploring the pros and cons of using this grid system to label books and is discussing ways that librarians can use it effectively or offer other resources, such as StorySnoops, as selection tools.

I attended a session celebrating the 50<sup>th</sup> anniversary of Harper Lee's *To Kill a Mockingbird*. This novel faces frequent scrutiny in libraries for its racial content among other sensitive topics. Mary McDonagh Murphy recently wrote a book and produced a documentary on the novel's influence. Nancy Pearl's interview with Murphy was entertaining and moving. The documentary featured Oprah, Rosanne Cash, and Tom Brokaw describing reading the novel as young adults; then, at later phases in life, they got deeper and deeper into the novel's meaning. I couldn't help thinking of what we would miss if we did not have the freedom to create, publish, and experience such works generation after generation.

My conversations with fellow right-to-read advocates reiterated similar thoughts when we identified that reading a novel as a youth is a completely different experience than reading the same novel as an adult. Children and adolescents will absorb from the story what they are able to at that phase in their life, which makes these novels so appealing to all ages. As secretary of my local Friends of the Library group, I hope to explore ways to celebrate Banned Books Week, including telling them about the Judith Krug Fund grants.

I heard several times (including in a session about a high profile book challenge and one about self-censorship) that it is easy to talk or read about things that are accepted by the majority. Yet, the First Amendment helps us work through topics and issues that may not be so comfortable to accept. It gives the minority a voice—a chance to be heard and understood. I love this concept, as it is the basis of the democracy within which we live. Libraries play such an important role in giving the minority the gift of a voice and in helping them to share this voice so that others may understand and learn.

I heard this concept once again “Blasphemy!: When Religious Values Clash with Intellectual Freedom.” Both speakers (Irshad Manji and Paul Sturges) were excellent—they entertained me and they captured my undivided attention. They spoke about our right to offend and that by not acting upon that right, we destroy our own freedom of speech. As Manji said, offense is not bad. It creates the opportunity for deeper thought. It takes brave people to exercise their right of free speech and ask the arduous questions (not only write about them) with the utmost of respect and clarity.

After days of sessions and making valuable contacts, I had the chance to meet Irene and Ted Conable, wife and son of the late Gordon M. Conable, who were both so welcoming and generous—after all, they are the reason I

am here. They affectionately reminisced about their life with “Gordie”, whom I am disappointed never to have met. I feel so blessed to have had the opportunity to learn about defending our right to read, share ideas, and access information, and to meet those that Gordon left behind.

I must say thanks again to all those who welcomed me into their circles. I value my newly formed connections and all I learned about intellectual freedom, and will continue exploring ways to ensure our democratic freedoms.

*Gordon Conable served several terms as FTRF President until his death in 2005. Gordon's wife, Irene, and the FTRF Board created the Conable Scholarship to honor his commitment to mentoring and to the Foundation.*

**Notes: FTRF Treasurer Susan Hildreth nominated as IMLS director:** On September 30, President Obama nominated Susan Hildreth to serve as the director of the Institute of Museum and Library Services. Hildreth, city librarian for the Seattle Public Library, currently serves as Treasurer of the Freedom to Read Foundation. She is awaiting confirmation from the Senate. Another FTRF trustee, Mary Minow, was appointed to the IMLS board.

**Obama signs “libel tourism” bill:** On August 10, President Obama signed the “SPEECH Act,” making foreign libel judgments unenforceable in the U.S. if they are inconsistent with the First Amendment. The law addresses “libel tourism,” in which plaintiffs file a libel suit in a foreign jurisdiction in order to obtain a more favorable judgment.

**Corn-Revere joins CBLDF:** Former FTRF trustee Robert Corn-Revere was named the new General Counsel for the Comic Book Legal Defense Fund, following the death of Burton Joseph.

## Updates

### **NSL John Doe revealed**

Following a settlement with the FBI in July, “John Doe”—the man who filed suit in 2004 against the government's use of National Security Letters and their accompanying gag orders—revealed himself as Nicholas Merrill, president of the Internet service provider (ISP) Calyx. FTRF filed briefs in support of both Merrill and the four Connecticut librarians who filed a similar challenge. Merrill also revealed that one of Calyx's clients is the New York Civil Liberties Union.

## FCC “fleeting expletives” ban struck down

On July 13, the Second Circuit Court of Appeals struck down the Federal Communications Commission’s 2005 ban on the television broadcast of “fleeting expletives,” ruling that it is unconstitutionally vague. In *Fox Television Stations, et al. v. FCC*, the court said the FCC was unable to demonstrate what is banned and allowed and thus led to self-censorship in the face of “massive fines.” The Second Circuit also noted that the media landscape had changed enormously since the 1978 Supreme Court *Pacifica* ruling. It added that, given the Supreme Court’s application of the strict scrutiny standard for cable, it could find no reason not to apply that to broadcast television as well.

## Report to Council

### 2010 Annual Conference — Washington, D.C.

*The Freedom to Read Foundation reports to the ALA Council at each Annual Conference and Midwinter Meeting. The following is an edited version of the report presented at the 2010 Annual Conference in Washington, DC. The full version can be found at [www.ftrf.org](http://www.ftrf.org).*

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As President of the Freedom to Read Foundation, it is my privilege to report on the Foundation’s activities since the 2010 Midwinter Meeting:

### **BURTON JOSEPH**

This past spring, we lost another First Amendment champion when Burton Joseph, Vice President of the Freedom to Read Foundation, passed away at the age of 79. Burt, an attorney, never passed up any opportunity to defend civil liberties and the First Amendment after he fought for a client’s right to sell Henry Miller’s *Tropic of Cancer* in the early 1960s. He defended demonstrators at the 1968 Democratic Convention in Chicago; sought to preserve the National Socialist Party’s right to march in Skokie; and took the lead in challenging unconstitutional laws that sought to limit our right to read, such as the anti-violence, anti-pornography ordinance struck down *American Booksellers Association v. Hudnut*.

Burt was a great believer in the power of libraries and librarians’ power to defend civil liberties. He faithfully

served the Freedom to Read Foundation for decades as a board member, officer, and supporter. Last year, he co-chaired the FTRF 40<sup>th</sup> Anniversary Gala. In 2008, the Burt received the FTRF Roll of Honor Award.

FTRF was not the only organization to benefit from Burt’s passion, leadership, and courage. He helped establish Lawyers for the Creative Arts, was a leader of the ACLU of Illinois, and was a founding member and chair of Media Coalition. He served as lead counsel for the Comic Book Legal Defense Fund and was executive director of the Playboy Foundation from 1969–1978.

We grieve his loss with his wife, Babette, and his daughters Kathy, Amy, and Jody; we will miss his warmth, humor, and loyal friendship. Contributions in Burt’s memory may be directed to the Roger Baldwin Foundation of the ACLU of Illinois, 180 N. Michigan Ave., Suite 2300, Chicago, IL 60601.

### **PRESERVING FIRST AMENDMENT RIGHTS**

Last year, Judith Platt, my predecessor, announced our decision to participate as *amicus curiae* in a critical Supreme Court case, *U.S. v. Stevens*. We received criticism based on the suit’s subject matter—a federal law that criminalized depictions of the killing, maiming, and torture of live animals. In defending the law, the government proposed that such depictions become another category of unprotected speech, with exceptions carved out only for those depictions that had serious religious, political, scientific, educational, journalistic, historical, or artistic value, as determined by a judge and jury.

The FTRF Board firmly believed it needed to challenge the government’s proposal that any speech could be denied First Amendment protection based on a balancing test weighing the perceived “value” of the speech against a compelling government interest. Such a balancing test would allow the government to abridge broad categories of speech held to have “low value” and certainly would have a chilling effect on artists, writers, photographers, journalists, and filmmakers who would be unable to know what speech might be subject to prosecution.

I am pleased to report that on April 20, the Supreme Court overturned the law, declining the government’s invitation to establish a new test for identifying unprotected speech. In an 8-1 decision, the Court said the law “created a criminal prohibition of alarming breadth,” that could be applied to a good deal of constitutionally protected speech. It ruled that the exceptions for speech with “serious value” could not save the law, noting that “[m]ost of what we say to one another lacks ‘religious, political,

scientific, educational, journalistic, historical, or artistic value' (let alone serious value) but it is still sheltered from government regulation."

The court also declined to accept the government's assurance that it could be trusted to only prosecute depictions of "extreme animal cruelty," holding that "the First Amendment protects against the government; it does not leave us at the mercy of *noblesse oblige*. We would not uphold an unconstitutional statute merely because the Government promised to use it responsibly."

In response to *U.S. v. Stevens*, Congressional representatives introduced two new statutes to regulate the depiction of animal cruelty. FTRF will monitor this legislation to assure they address the crime of animal cruelty without infringing on the First Amendment.

I am equally pleased to report that there is a successful conclusion in *American Booksellers' Foundation for Free Expression v. Strickland*, FTRF's challenge to an Ohio statute that classified profanity, violence, cruelty, and glorification of crime as obscenity for minors and made it a crime to disseminate those materials online.

After a federal district court found the statute unconstitutional, the legislature revised the law, which was then reviewed by the Ohio Supreme Court and the Sixth Circuit Court of Appeals. Both courts sought to determine if the law could be interpreted in a manner that would limit its application to personally directed communications and exempt materials that are posted on generally accessible websites, public chat rooms, and online public forums, thereby protecting free expression on the Internet. The Ohio Supreme Court held that the law was limited to person-to-person electronic communications and could not be applied to materials distributed via mass methods that don't allow the user to prevent distribution to specific recipients; the Sixth Circuit held that the revised law, thus interpreted, did not violate the Constitution.

Thus, as a result of our litigation, Ohio abandoned the overbroad, unconstitutional law that significantly infringed on First Amendment rights. A much narrower law is now in place.

## NEW LITIGATION

The Alaska legislature has enacted a law criminalizing the distribution of "harmful to minors" materials on the Internet, without provisions to assure that the laws are not enforced in a manner that impairs free speech. *[See p. 1 for details on FTRF's suit against this law.]*

## ONGOING LITIGATION

FTRF continues to monitor and to participate in lawsuits that address First Amendment rights in the library. One lawsuit, *Sarah Bradburn et al. v. North Central Regional Library District*, has drawn particular scrutiny since it challenges a library's policy of refusing to honor adults' requests to temporarily disable Internet filters for research and reading, even though the decision in *U.S. v. ALA* clearly provides for disabling filters on the request of an adult user.

On May 6, 2010, the Washington State Supreme Court concluded that the library's filtering policy did not violate the Washington State Constitution. Notably, three justices filed a vigorous dissent on the grounds that the decision was inconsistent with the U.S. Supreme Court's opinion in *U.S. v. ALA*. The decision, however, does not decide the question of whether the NCRL's filtering policy violates the First Amendment of the U.S. Constitution; the lawsuit will be returned to the federal district court, which will decide the constitutional issues raised by the lawsuit. FTRF is not a participant in the suit, which was filed by library users and the ACLU.

FTRF has been involved in *Entertainment Software Association v. Schwarzenegger*, a suit challenging a California law that restricts the sale or rental of video games classified by the state as "violent video games" to those under the age of 18. *[See p. 3]*

## JUDITH F. KRUG FUND

Over the past year, a substantial amount has been donated to the Freedom to Read Foundation in memory of our founding executive director, Judith Krug. Plans for the fund were finalized at this meeting. The Krug Fund will have two major components—Banned Books Week Read-Out grants *[See p. 2]* and online intellectual freedom education for LIS Students.

Respectfully submitted,

Kent Oliver  
President, Freedom to Read Foundation

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*Freedom to Read Foundation News* (ISSN 0046-5038) is issued quarterly to all members of the Freedom to Read Foundation. Regular FTRF membership begins at \$35.00 per year for individuals and \$100.00 for organizations. Student membership is \$10.00. Contributions to FTRF should be sent to: Freedom to Read Foundation, 50 E. Huron St., Chicago, IL 60611. You also can contribute by phone at (800) 545-2433 x4226 or at [www.ftrf.org/jointftrf](http://www.ftrf.org/jointftrf). FTRF is a 501(c)(3) organization and contributions are tax-deductible.