

GODORT Legislation I
January 18, 2002 3:00-5:00pm
Hotel Monteleone – La Nouvelle Orleans West
Laura Dickson, Chair
Janet Justis, Secretary

The Chair called the meeting called to order at 3:05p.m.

Attending: Committee Members: Laura Dickson (chair), Valerie Glenn (webmaster), Geoffrey Swindells, Kevin Reynolds, Stephen Hayes, Larry Romans, Susan Pinckard, Arlene Weible, Janet Justis (secretary), and Bernadine Abbott Hoduski, ALA Councilor, ex officio.

Gary Cornwell, chair GIS, and Patrice McDermott Assistant Director ALA/OGR joined the committee to share updates regarding agenda items.

Visitors: Chantana Charoenparitkul, Robert Walker, John Hernandez, Sherry DeDecker, Andrea Severson, Cindi Wolff, Janet Steins, Chuck Eckman, Dan Barkley, T.C. Evans, Ridley Kessler, Jim Veatch, Justine Honeyman.

Approval of agenda; moved by Reynolds, seconded by Swindells, approved.

Approval of minutes from ALA Annual San Francisco; moved by Romans, seconded by Justis, approved.

NAAN Update:

Janet Justis reported that we currently have contacts for all states except New York and California. Previous contacts for both states unfortunately resigned in 2001 and possible replacements may be found at Midwinter. Discussion was held on the next steps needed to move the NAAN forward. Hayes recalled that in the past telephone messages and email have been used to alert contacts of legislation needing action or comments. In some cases only select states might be contacted on a given issue. Most committee members felt that it would be most efficient to use an email distribution list to communicate with contacts instead of creating a new listserv, etc. The list needs to be tested asap, and contacts should confirm that they are still willing to serve and are aware of state and local distribution lists.

GODORT Legislation Webpage Update:

Valerie Glenn has done an excellent job of updating the committee's webpage and is continuing to add older resolutions. Larry Romans provided Glenn with some of the missing resolutions. Discussion included possible contacts who may have ALA archival materials as some of the older resolutions were transferred to ALA by the GODORT Archivist. Mary Gentis ALA Chicago and Vicki Tate ALA Archivist may be the best place to start.

Discussion and Updates on Previous Legislation and Issues:

GPO has received full funding for the S&E appropriations, \$29.6 million.

S. 803 / E-Government:

McDermott reported that ALA has met with Kevin Landy regarding extensive changes made in the language of the original bill. OMB delayed a meeting scheduled earlier this week to discuss the legislation. Bill remains in limbo at present.

E.O. 13233 / Presidential Records:

McDermott reported that the House Committee on Government Reform has asked that the executive order be withdrawn. If the order is not rescinded, Representatives Dan Burton and Henry Waxman will introduce legislation challenging the order in February.

Ashcroft FOIA Memo:

This memo basically replaces the 1993 Reno memo. We may not be able to determine the full effect until information is withheld and challenged. There is some question that this memo essentially changes actual practices.

USA Patriot Act :

McDermott reported that there will be updates tomorrow in MCC Rooms 271-273 from 4:00-5:30pm.

Discussions:

Bernadine Abbott Hoduski reported that the Social Responsibilities Round Table is working on 7 resolutions some of which discuss the USA Patriot Act, take-down of government information, and torture. Cornwell and Dickson will get copies of these resolutions and update the committee.

Cornwell reported that there is also discussion of the "Fair Act" which involves Presidential determination of agency functions and whether or not said functions are governmental activities.

Abbott Hoduski asked that we endorse in principle a decision by Freedom To Read to file an amicus brief on behalf of the Private Citizens recent lawsuit. McDermott indicated that she did not know which committee might take this on for further discussion or action. The GODORT chair will be attending the Intellectual Freedom meeting tomorrow and could express support.

Lengthy discussions occurred in defining which issues GODORT Legislation should consider as key agenda items for future meetings. The group seemed to feel that resolutions regarding E.O. 13233 and a reaffirmation of our concerns regarding access to government information be considered. When attempting to define "take-down" issues, the discussion focused on achieving a balance in supporting the core tenet of the public's right to government information and the safety of the public in light of the events of September 11th. Removal of government information includes the requests of USGS and SuDoc to destroy copies of the USGS CD-ROM (example of removing previously

distributed tangible products from depository libraries) as well as electronic only publications disappearing from agency websites.

When discussing “take-down” issues, the committee kept coming back to whether or not we are ready for resolutions or whether we are still in an information gathering stage to identify information removed from the web after September 11th in light of concerns regarding terrorism. The shut down of the Dept. of Interior’s website because of a court order is non-related to the attacks of Sept. 11th, but affects access for citizens nonetheless. Dickson has been monitoring the situation recently and has posted information on Legislation’s webpage. It was suggested that the committee ask that Sherry DeDecker have FDTF review take-down issues and perhaps continue monitoring materials removed and creating lists for documentation. DeDecker explained that FDTF has a pretty full agenda, but that perhaps at tomorrow’s meeting the speakers addressing material that has been removed could comment on where that material is now and what would happen if a FOIA request were filed.

Evans suggested that when considering “take-down” the real issue may cease to be materials that have been removed from the web, and a greater concern might be that some information will never be put up at all. In essence “access” becomes the more critical concern.

Abbott Hoduski felt strongly that some action needs to be taken immediately. She suggested that perhaps a resolution could be done requesting a study and that ALA be asked to provide the funds necessary to cover research, legal opinions, and the development of policy statements.

Abbott Hoduski related a story from an earlier meeting of Freedom to Read where it was suggested that practical stories be shared showing the effects of removing information and how they affect citizens’ safety in daily activities. Cornwell added that he has a sense that Congress is more focused on issues surrounding terrorism than the loss of information and it’s affect on the average citizen. The discussion continued to evolve into a consensus that we try to find the balance between addressing issues concerning terrorism and the public’s right to know and the safety of that public. Kessler, Wolff and others suggested that we may need help from other groups to study and support this effort. Wolff suggested that perhaps we can recommend that ALA appoint an Ad Hoc Committee to ensure an inclusive approach.

Romans suggested that perhaps on the take-down issues there might be room for two resolutions. One an internal resolution which would reiterate ALA’s support regarding access to government information, and another to explain our position to outside groups.

In a similar discussion, Severson mentioned the recent request by Secretary Thompson that one CIO replace individual public information officials of various health and human services agencies. This would affect the direct contact and involvement of officials from agencies like the CDC, FDA, etc. It was suggested that this kind of situation merits watching and that the committee could choose to monitor webpages and lists as well as

follow the activities of various groups, e.g. MLA who are actively monitoring the situation.

On that same note, Swindells agreed to monitor developments on FRUS issues. Librarians and historians expressed concerns in 2001 when State explored the possibility of having the Indonesia volumes recalled, and later chose not to pursue the matter. Current concerns involve differences of opinion between State and the CIA for sharing information necessary in the creation of new series volumes.

After discussion, Swindells commented that it may be too soon to take a position on the USA Patriot Act and suggested that we follow updates as they occur. Abbott Hoduski commented that this Act has liability issues for all librarians who assist patrons in using government information particularly via tools like GPO Access. McDermott agreed that this is a question that needs to be asked, but commented that we don't know what the implications are at present. The incident in Arkansas where FBI agents visited depository libraries to investigate whether or not they had removed the USGS CD-ROM as instructed by GPO was used as an example of the complexities of this type of legislation. The FBI acted on its own without any request from GPO or USGS.

Cornwell asked if the group wished to endorse in principle the Draft Report on "Principles for the Networked World". Past GODORT Chair, Ann Miller, appointed Duncan Aldrich as the GODORT representative to this group. Since the report has not yet been brought to Steering, copies will be made for the committee's review at our next meeting. Hayes will also attempt to get additional information from Aldrich. The request to endorse in principle can be brought to GODORT Business on Monday. (Note: the report was posted to the Steering Committee reflector)

The committee agreed to focus on crafting two resolutions; one regarding E.O. 13233 and another reaffirming our commitment to access to government information. The committee also wishes to ask for the creation of an ALA Ad Hoc Committee to study take-down issues with emphasis on finding a balance between the public's right to know and security concerns. The issue of unintended consequences is also a factor. FRUS and changes in HHS policy regarding agency information officers merit monitoring and reporting.

The meeting was adjourned at 5:05pm.

GODORT Legislation Committee II (Joint Meeting with ALA/COL/GIS)
January 19, 2002 2:00-4:00pm
Memorial Convention Center, Room 348
Gary Cornwell, Chair, GIS
Laura Dickson, Chair, GODORT Legislation
Janet Justis, Secretary, GODORT Legislation

Attending: GIS: Gary Cornwell, GladysAnn Wells, Robert Walter, Dan Barkley, Ann Miller and Jane Sessa.

GODORT LEG.: Laura Dickson, Janet Justis, Geoffrey Swindells, Kevin Reynolds, Valerie Glenn, Arlene Weible, Steve Hayes and Bernadine Abbott Hoduski, ALA GODORT Councilor.

Visitors: Lynne Bradley, ALA, Washington Office; Patrice McDermott, ALA Washington Office; Mary Alice Baish, AALL; Duncan Aldrich, Mary Martin, Jack Sulzer, Candace Morgan, Paula Hinton, T.C. Evans and Justine Honeyman.

Cornwell chaired and called the meeting to order at 2:05pm. Members of both committees introduced themselves.

Cornwell asked for a brief review of discussions from yesterday's GODORT Legislation meeting for GIS members:

FOIA Exemption:

McDermott reported that there are bills in the House that would create a FOIA exemption for agencies regarding issues that are non-governmental in nature (like energy grids and other contractor related issues).

E.O. 13233:

McDermott also indicated that E.O. 13233 impacts the Presidential Records Act and gives broad powers to sitting and former Presidents and their families to limit access to records. She also stated that a limited number of amicus briefs were permitted in challenging this order effectively excluding all library groups. Financial concerns are also issues as well for groups like libraries. Mary Alice Baish suggested that at a later time perhaps during any appeals, we might be better able to effectively show support. Letters expressing concerns from the library community have already been sent by the Washington Office, GODORT, etc.

Official Secrets Act Issues: re: leaks

Discussed provisions related to previous Intelligence Authorization Act. Clinton vetoed this Act. A study has been requested to see if this type of legislation is needed. Wait and see at present.

S. 803:E-Government Bill

Senator Lieberman's staffers are still in negotiations with the White House regarding issues surrounding the CIO. Much of the language has changed since the initial bill.

Abbott Hoduski asked if the Washington Office has additional information, however, neither McDermott nor Baish/AALL has received detailed comments on the recent revisions of the bill. They believe this is just a normal result of other issues taking priorities since fall. McDermott suggested that perhaps we need to ask for indexing or listing of materials the agencies actually put up to address access issues. Lieberman does not appear to be interested in access issues.

Take-down issues: ALA Washington Office, OMB and others are watching sites and monitoring information that has been removed.

PubScience:

Baish reported there is no additional information on PubScience. Dickson reported that there is no mention of PubScience in the conference report. Baish believes they are trying to save the entire OSTI program, but no good news for PubScience.

Patent and Trademark Office:

McDermott and Baish met with officials at Patent and Trademark to discuss concerns when the press reported that patents were being destroyed. Clarifications as follows: Originals are given to the applicant. Masters are kept and preserved. Only multiple photocopies were actually being destroyed. This may have been a misunderstanding or a tempest in a teapot. Baish stated that PTO is committed to putting up as much information as possible on the web for the public.

Review of plan from GODORT Leg. I Meeting: Dickson reporting

- Resolution on E.O. 13233
- Resolution on access issues
- Ask that an ALA Ad Hoc Committee be formed to study take-down issues
- Follow up on HHS consolidation of public information officers

Jane Sessa, GIS, expressed concern regarding implications of the **Federal Activities Inventory Reform Act (Fair Act):**

Fair Act (government shouldn't be competing with the private sector in providing services) Departments have certain goals on things they can contract out. This could affect many federal libraries. NOAA has already contracted out many library services. OMB may have asked that the agencies now identify and compete 5% of services (but may not have to award it out.) Sessa believes it may be based on FTEs. Abbott Hoduski feels that this implies that library services are not inherently governmental and that is problematic on several levels.

Lynne Bradley mentioned that this may also reflect a larger policy issue that is also being seen in the states. When you review resumes of many of these employees there is a pattern of short-term services and frequent turnover. This impacts training and service.

Cornwell asked if we are ready for an action item for this group. Sessa doesn't know how quickly she can pull things together, but the federal librarians are meeting later today and can discuss how they would like to proceed.

Washington State Library (possible closure):Governor zeroed out funding in proposed state budget

Discussion if there is a role for this group:

Lynne Bradley asked if we've had a role in the past. WSL is the regional federal library and state depository. Hayes indicated he believes that similar issues regarding state depository programs have been addressed by ALA in the past. Weible added that this is a budget that has not been vetted in the state legislature yet so this may not be the proper time for action. Cornwell suggested that perhaps the Chair of GODORT could ask ALA to write a letter to the legislative leadership/governor expressing concern when the time is appropriate. Weible mentioned that the state depository program is still on the books and so is the regional depository. Abbott Hoduski asked if SLDTF could write a policy statement regarding the importance of the state depository program. Bradley asked if there is any language on the books that we can repackage. Justis is the liaison to SLDTF and can ask SLDTF to monitor the situation, and prepare a statement about the importance of the state depository program at a later time if appropriate. SLDTF is meeting this afternoon and Justis will attend. SLDTF could also ask GODORT Legislation Chair to revisit the issue at a later time.

Draft "Principles for the Networked World:" Ad Hoc Committee to the OITP

Duncan Aldrich (GODORT rep. appointed by past GODORT Chair Ann Miller), Lynne Bradley and others attended the planning meeting at Skokie, Illinois. Aldrich reported that Bob Oakley originally asked the group to address each issue fully. Aldrich worked on "Content" and Baish worked on "Privacy". Bradley added that ALA units have had representatives on the group to give feedback. Copies of the draft were given to committee members for review.

Cornwell asked that GIS endorse in principle. (moved and approved) Dickson asked that GODORT Legislation to endorse in principle. (moved and approved)

GIS needs nominations for the James Madison Award by end of the month. This award recognizes individuals who have contributed to the access of government information. Cornwell will post request for nominations to the list.

Cornwell asked for suggestions in addressing the 2 resolutions to be drafted, and the request for a task force.

Resolution re: public access to government information

Barkley, Weible, Glenn will begin working on this resolution.

Resolution of the Presidential Records E.O. 13233

Reynolds will take to FDTF following this meeting.

Need one sentence for COL re: response to Citizens lawsuit; McDermott will work on this.

Abbott Hoduski and Sessa will work on issues re: Fair Act

Recommend ALA Ad Hoc Committee be formed re: the take-down issues

What should this group do? Track sites, policy statements? Legal opinions?

ARL has already asked Tom Sussman to respond to a question on similar issues perhaps we could use parts of his report when it is made public.

GODORT Legislation will meet tomorrow at 8:30am to draft resolutions.

Meeting was adjourned at 4:00pm so that some members could attend the updates re:
USA Patriot Act

GODORT Legislation III
January 20, 2002 8:30-11:00am
Morial Convention Center, Room 263
Laura Dickson, Chair
Janet Justis, Secretary

Attending: Laura Dickson, Janet Justis, Susan Pinckard, Stephen Hayes, Geoffrey Swindells, Arlene Weible, Valerie Glenn, Larry Romans and Kevin Reynolds. Visitors: Patrice McDermott, Ridley Kessler, Fran Buckley, Mary Alice Baish and T.C. Evans.

The chair called the meeting to order at 8:40am.

Dickson updated members who missed yesterday's joint meeting with ALA/COL/GIS of the committee's decision to endorse in principle the "Draft Principles for the Networked World."

The committee reviewed several draft resolutions from SRRT and decided that the resolutions are not within our jurisdiction and need no further action from GODORT Legislation. Later during the meeting Romans reported that SRRT has withdrawn these resolutions, but may draft others later today.

Dickson reported that she, Reynolds, Romans and Swindells attended the FDTF meeting yesterday and that FDTF asked us to work with ALA to request that the Joint Committee on Printing hold public hearings on information that was previously publicly accessible but has been removed since Sept. 11th.

During their meeting FDTF split into working groups and one of the groups suggested wording for the resolutions to be drafted by GODORT Legislation today.

FDTF also plans to ask the Chair of GODORT to appoint an Ad Hoc Committee to study issues related to take-down of government information. Lengthy discussion occurred as GODORT Legislation and GIS have also had discussions and plan to request that ALA appoint an Ad Hoc Committee that would address these and broader issues. The advantage of an ALA Ad Hoc Committee is that various units could work together to be more inclusive and to cover a variety of aspects related to take-down and unintended consequences of the USA Patriot Act and other legislation. Possible groups who may want to be included are: COL, FAFLRT, ACRL, GODORT, and Intellectual Freedom.

Buckley and Walter felt this approach would provide a more structured way for a variety of groups to work together. Cornwell later confirmed that ALA/COL/GIS and GODORT Legislation plan to ask that an ALA Ad Hoc Committee be appointed by the President of ALA. Copies of the draft recommendation were distributed.

Dickson expects a discussion at GODORT Business on Monday. She will try to speak with the GODORT Chair and FDTF Chair prior to the Business Meeting to explain the

various approaches and to build consensus for the ALA Ad Hoc Committee. FDTF could always request that the GODORT Chair appoint a GODORT Ad Hoc Committee at a later time if needed for any reason.

Committee members then split into two groups to draft two resolutions:

- Resolution Concerning Government Information and Security
- Resolution Concerning Executive Order 13233, Further Implementation of the Presidential Records Act.

Additional work on the resolutions may occur early Monday morning when GODORT Legislation and ALA/COL/GIS meet. They will be presented at the GODORT Business meeting on Monday afternoon, and the Chair of GODORT Legislation will ask GODORT membership to endorse in principle.

Meeting was adjourned around 11:45am.

GODORT Legislation IV (joint meeting with GIS)

January 21, 2002 9:30-11:00am

Morial Convention Center, Room 348

Gary Cornwell, Chair GIS

Laura Dickson, Chair GODORT

Janet Justis, Secretary

Cornwell called the meeting to order at 9:40am.

Attending: GIS: Gary Cornwell, Chair; Ann Miller, Jane Sessa, Robert Walter;
GODORT: Laura Dickson, Chair; Janet Justis, Geoff Swindells, Valerie Glenn, Arlene Weible and Kevin Reynolds.

Visitors: Mary Alice Baish, Patrice McDermott, Ridley Kessler, Francis Buckley, Cindi Wolff, T.C. Evans and Andrea Sevetson.

Dickson asked GODORT Legislation to review the two resolutions from SRRT: "Resolution on Collection Development and Library Programming in Times of Conflict" and "Resolution on the Protection of Privacy Rights". Kessler, Weible, Walter, and Swindells are concerned that the language is not carefully crafted and does not support the concerns effectively. Swindells moved, Justis seconded and committee voted not to endorse in principle. GIS Walter moved, McDermott & Baish seconded, committee voted not to endorse in principle.

Discussion of resolution "On threats to intellectual freedom arising from the US government response to terrorist attacks" from the Intellectual Freedom Round Table. Weible moved, Swindells seconded and GODORT members voted to endorse in principle. Dickson will take the issue to GODORT Business for discussion and report. GIS discussion: Walter and Baish expressed concerned that we don't know exactly who drafted the resolution and felt that the draft is not well written. Baish was also concerned about RESOLVED #4 regarding proper response to legitimate warrant or court order. GIS differed vote.

Formation of an Ad Hoc Committee:

Questions and discussions involved how the committee should be appointed: by the ALA President or some other entity in ALA.

After discussion, Cornwell recommended this compromise: GODORT Legislation and the Subcommittee on Government Information (ALA/COL/GIS) recommend that the President of ALA in consultation with the Chair of GODORT and the Chair of GIS, appoint an Ad Hoc Committee to gather information and recommend to ALA, policy regarding a variety of government information issues in light of current security concerns. GODORT and GIS also requested that the committee have broad representation with membership drawn from GODORT, COL-GIS, ACRL, FAFLRT, Intellectual Freedom and other appropriate units.

Most of the meeting was spent editing and endorsing the resolutions.

The committee endorsed three resolutions during conference.

- Resolution Concerning Government Information and Security
- Resolution Concerning Executive Order 13233, Further Implementation of the Presidential Records Act
- Resolution on the Federal Activities Inventory Reform Act (FAIR Act) P.L. 105-270 (FAFLRT/GIS)

Adjourned 11:15am