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Maryland Library Association

Intellectual Freedom Manual

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INTRODUCTION

> "Congress shall make no law respecting an establishment of religion,
> or prohibiting the free exercise thereof; of abridging the freedom of
> speech, or of the press; or the right of the people peaceably to
> assemble, and to petition the government for a redress of grievances."
>
> Source: Bill of Rights of the United States of America, Amendment I

Intellectual freedom is the cornerstone of our societal freedoms: the freedom of thought, the freedom of belief, the freedom to read and the freedom to express our ideas. All of these freedoms are protected by the Constitution of the United States and specifically guaranteed by the First Amendment.

Addressing the role of libraries in protecting these freedoms, the introduction to the seventh edition of the American Library Association's *Intellectual Freedom Manual* remains relevant today:

> "Now, more than ever, librarians need to be mindful of the special
> role libraries play as centers for uninhibited intellectual inquiry.
> Librarians have taken upon themselves the responsibility to provide,
> through their institutions, all points of view on all questions and
> issues of our times, and to make these ideas and opinions available to
> anyone who needs or wants them, regardless of age, background or
> views."
>
> Source: ALA Intellectual Freedom Manual, 2006, Introduction

The freedom of expression guaranteed by the First Amendment and the corollary of that freedom, the freedom to read, is uniquely fulfilled by the library.

However, intellectual freedom cannot bring itself into existence. Individual librarians and library staff members must apply these principles in our daily activities, activities such as materials selection, reference and circulation services, collection evaluation, collection building, providing access to electronic resources and acquiring material from other organizations and institutions, in a nondiscriminatory manner.

The flow of information is essential in today's complex societies. Information, however, is not useful unless we are able to access it through every medium in which it is offered, books, magazines, newspapers, the World Wide Web, video, databases or other formats. One must also be mindful that access and availability do not mean that a library endorses the information provided. Diversity of views is a desirable goal and libraries should reflect and support disparate points of view.

Although the MLA Intellectual Freedom Manual contains information about intellectual freedom for all types of libraries and provides guidance for addressing the many issues libraries face today, its primary objective is to encourage libraries to make every kind of information available and accessible to everyone who uses a library.

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FREEDOM OF ACCESS

The Intellectual Freedom Panel (IFP) believes that the right of free and unrestricted access to information is vital for any populace. In order to make informed decisions and to participate intelligently in a democracy, a citizenry must have free access to all forms of information and expressions, whether economic, political, scientific or social.

The American Library Association (ALA) "Library Bill of Rights" states that, "Books and other library resources should be provided for the interest, information and enlightenment of all people of the community the library serves" and, "A person's right to use a library should not be denied or abridged because of origin, age, background, or views."

Some ideas or expressions may be objectionable to certain individuals or groups, but these same ideas may not be objectionable to others. It is not the library's place to take sides on such issues. While it is true that a library must follow the laws of the society, it is not reasonable for the library to give up its neutral stance in favor of the opinions of one particular group. There is an essential societal need for an institution that unfailingly defends the free and unfettered provision of information and exchange of ideas. That institution is the library.

One major benefit of an unrestricted flow of information is to allow our society to progressively expand our human knowledge base. Society progresses on mountains of ideas, built through the free exchange of knowledge. One person may originate an idea and a second may expand on it. Still others learn of the idea, use it to their advantage and may also add to it. It is this progressive exchange and building of ideas that allows us to find the answers to pressing and changing human concerns. Any restriction of this process, such as denying access to certain information, can be an impediment to progress.

Freedom of Access and Government

In the aftermath of the terrorist events of September 11, 2001, the federal government, and many state and local governments, undertook a steady reassessment of the types of information they make available to the public, in light of the potential that such information may be used by a terrorist agency to commit acts of terror. The library community took notice that many materials, which were once freely accessible, were no longer available. IFP believes that while some materials may be too sensitive for public release, governmental agencies must be ever diligent to minimize any restrictions on public access to information. Two primary reasons for this stance are:

1. Freedom of Access to information is necessary to support a government that is receptive to the needs and desires of its citizens

In order for a representative form of government to work effectively, a governed people must have the basic right to understand the current societal and governing issues. The public should also be made aware of what the current members of government are doing about the particular issues, so that well-informed decisions and actions can be undertaken.

Libraries play a key role in this process. They are one of the few institutions that can offer neutral, unbiased source materials about the inner workings of government and on societal debates. Libraries typically provide access to such information through the conduit of traditional print materials and electronic access to library databases and materials on the Internet.

2. Freedom of Access to information is necessary to prevent tyranny

The framers of the U.S. Constitution created a government of checks and balances to discourage the power elite from imposing their will upon a free people. The architects of the Constitution were well aware of the significant potential of the misuse of power and understood the benefit of creating a balanced three-branch government. The intent was to ensure that no one person or group, nor one branch of government could achieve absolute power over the other and, in turn, over the governed.

Our government was intended to be a representative government with these checks and balances in place. While it was designed to ensure the free flow of information among its citizens, there have been times when citizens' rights to free speech have been abrogated, or at least curtailed, due to National Security interests. These situations will occur and may be tolerable, for the short term and within limits. This is true as long as the citizenry is well informed as to the reason, as to what rights are being threatened, and from whom these rights are being taken away. With this information, the individual citizen can then voice his or her opinion or exercise his or her vote about the process.

As Timothy Snyder points out in his book *On Tyranny*, "Most of the power of authoritarianism is freely given." The potential for tyranny must be constantly monitored, and corrected, when violations that begin to erode our basic human rights occur. Without a well-informed citizenry we have little defense and without free access to information it is difficult to have an informed citizenry.

Another disturbing trend has been the suppression or distortion of information for political purposes that have nothing to do with the security of our country, and everything to do with an attempt to impose a point of view on the nation. Examples include interference with the dissemination of scientific and medical information, attempts to legislate against school curricula, and treating "alternative facts" as valid data. Putting gag orders on researchers, educators, and the media restricts the ability of citizens to make decisions based on authoritative data. Such suppression must be fought by the producers, providers, and consumers of information. Giving as much weight to "alternative facts" as to those supported by evidence is a danger to intellectual freedom because it asserts, in effect, that there is no distinction between fact and fiction, true and false—a step that is foundational to establishing tyranny. Hannah Arendt, one of the world's great thinkers on the subject, pointed out that "The ideal subject of totalitarian rule is not the convinced Nazi or the dedicated communist, but people for whom the distinction between fact and fiction, true and false, no longer exists."

In summary, unencumbered freedom of access to information is necessary to allow for a truly enlightened citizenry, to allow for the growth of this citizenry's cumulative knowledge base and to engender a truly representative form of government. A curbing of the freedom of access to information would inevitably erode these goals. IFP believes it is the librarian's role to prevent this from happening, whether the source of the restriction comes from an individual, a group or our government.

Collection Development

Within any library collection development policy, there is a critical need for clear and simple guidelines to minimize internal restrictions placed on the content of information collected. The selection of materials portion of any collection development policy should include a clear statement affirming the adherence to freedom of access principals. Without such a selection statement, collection development is in danger of being limited to only a few commonly accepted viewpoints. Ignorance, through the suppression of ideas, fosters fear and misunderstanding. In the case of libraries, the internal suppression of topics or ideas leads to self-censorship. Instead of being avoided, controversial ideas should be welcome in a library collection.

Libraries should encourage this ongoing flow of ideas by providing unrestricted patron access to both established and controversial opinions and expressions. Unpopular views are as worthy of our shelves and electronic databases as those that are universally admired.

For examples of selection policies in libraries, see the links at the end of the citation section below. For details about what a good selection policy should include, see "What to do before the censor comes" in the section labeled Censorship in this manual.

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EQUITY OF ACCESS AND THE DIGITAL DIVIDE

The rapid growth of electronic technology as a means of accessing information has led to increased concern over differences in access to information for various social, economic and ethnic groups. Without adequate access to the technologies that enable a user to gather and use information, citizens become less informed and our democracy suffers. Libraries are a primary resource for gaining access to information available in both print and electronic formats. This commitment is emphasized in American Library Association (ALA) documents, such as the Library Bill of Rights, "Libraries: An American Value," and "Access to Electronic Information, Services and Networks."

The Digital Divide

The concept of the digital divide has been used to highlight differences in electronic access to information based on economics, race, ethnic or social group and/or geographic location. ALA has focused much attention on this issue. For example, in 2001 ALA participated in a cooperative venture to help close the digital divide for children and teenagers using public service announcements and creating a help desk to assist Internet users - see "ALA Joins National Campaign to Close Digital Divide."

In the document "Principles for the Networked World," ALA further committed itself to equitable access and the elimination of the digital divide. This document focused on numerous issues including privacy, equitable access, access to content, and other issues. Equitable access is defined as "user-centered, barrier-free, and format-independent access to information."

One of the major barriers to access is economic. Populations residing in poor areas or in households of low income may be unable to gain access to information because of the inability to purchase the required equipment, Internet provider service or other necessary resources. This places a special responsibility on libraries to provide access for these communities. It is the position of the library community that such economic impediments be minimized.

In "Economic Barriers to Information Access," ALA has emphasized its commitment to fulfilling, within economic realities, this important commitment. Specifically, it states that "All library policies and procedures, particularly those involving fines, fees, or other user charges, should be scrutinized for potential barriers to access. All services should be designed and implemented with care, so as not to infringe on or interfere with the provision or delivery of information and resources for all users. Services should be reevaluated regularly to ensure that the library's basic mission remains uncompromised."

Libraries bear a special responsibility to ensure that the public has access to computers, the Internet, and other networked resources to allow all segments of society to participate in the information revolution.

Net Neutrality

Even with libraries offering Internet access to the public, that access will be diminished without the practice of "net neutrality" by Internet service providers. Net (or network) neutrality means that these providers offer the same quality of service to all users. Unfortunately, some providers want to be able to control who gets faster service, based on what they can pay. When the FCC instituted

rules in 2015 to ensure an open Internet, supporters of intellectual freedom were encouraged. However, under a new administration in 2017 these rules are in jeopardy. Net neutrality is a complex and contentious issue that needs to be closely watched by those concerned about the fair distribution of online information and service.

Service to Special Populations

ALA and the Maryland Library Association (MLA) have a long-standing commitment to serving the needs of people that are physically or psychologically challenged, the elderly and the incarcerated. This requires that libraries make a serious commitment of staff and resources to provide equipment, services and staff to members of these communities. For an overview of many of the issues one should consider when serving such populations, visit the Association of Specialized and Cooperative Library Agencies (ASCLA/ALA) web site Libraries Serving Special Populations Section.

An excellent source for general issues one should consider when dealing with people with disabilities is ASLCLA's tips sheets on "Library Accessibility: What You Need to Know." Maryland resources include the "Maryland State Library for the Blind and Physically Handicapped" and the "Maryland Technology Assistance Program."

The governing principle behind all of these documents is clear, that the library community is responsible for providing access to the same quality and quantity of information to all communities.

All library staff must remember that the library community has a special responsibility to assure access to resources and information to every socioeconomic group. To many, libraries are the resource of first and last resort for such access. This is a tradition and a history of which we can be proud.

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CENSORSHIP

Who are the Censors?

One never has to look far to identify the censor. The censor is rarely an unrecognizable person from a distant place whose intention is to take away freedoms. Most often, the censor is a friend, or a neighbor, or a community group or even, on occasion, your friendly librarian.

A brief review of current literature reveals that the most common group of people wanting to censor materials are parents wishing to remove books from libraries. These parents are horrified by particular words, descriptions, topics or points of view in the materials assigned or available to their children. These are, for the most part, well-meaning people who believe they are guarding the innocence of their own children. However, by censoring certain items, these parents would be denying the material to other children, thus restricting the free flow of essential learning that takes place in libraries.

In addition to censoring parents, there are other groups bound together by religious, patriotic or other common belief structures. Often these groups feel threatened by a particular ideology or belief with which they do not agree and they target libraries that provide books, displays or other materials about the issue. A common example in libraries today is the topic of homosexuality. Some groups would remove most or all materials about the issue from library shelves, displays and even electronic portals. Out of fear, these groups might even censor materials which discuss, for instance, the struggle for civil and human rights that homosexuals have engaged in over the last two centuries. If these censoring groups were successful in their purging intent, other interested community members would be denied free access to such materials for their own edification.

And yes, there are even censoring librarians. These individuals may have been challenged, by a person or a group, one too many times regarding their choice of library materials and, as a result, are now self-censoring in their selections. Perhaps a particular author was a communist at some time in his/her life and a patron might object to seeing the material on the shelf. Maybe there is a risky word in that children's book. Perhaps the sexual innuendo is a bit graphic or a singer/artist is too over-the-top for someone's taste. The self-censoring librarian may decide that it is better to play it safe and not buy an item before someone can lodge a complaint.

We all have peer groups that influence our behaviors; groups that may guide what clothes we wear, which movies we watch and even the general ways in which we behave. However, as librarians, we are called to be leaders by setting the example. We must often be the risk takers as we support First Amendment rights. When we say freedom of speech we have to mean it and we have to mean it for all people, the ones we do not know, the ones who seem strange to us and even the ones we disagree with.

What to do Before the Censor Comes

One of the best ways to deal with a censorship crisis is to be prepared for one to happen. A great place to start is by reviewing, and perhaps formally adopting, the American Library Association Library Bill of Rights and Code of Ethics. These documents can be reprinted, with permission, within your library's service and collection development policies. Alternatively, library administrators may use these documents as guidelines for drafting and adopting their own policies.

The ALA Office for Intellectual Freedom (OIF) pages on Selection Policy review the steps needed

to create a selection policy and examples of how to deal with challenges. Important preventative measures previously recommended by ALA's Office of Intellectual Freedom are listed below. Following these measures will not necessarily prevent complaints and inquiries, but will assure your library's preparedness.

1. Maintain a materials selection policy

    Your library's materials selection policy should be in writing and should include a notice that it has been approved by the library's governing authority (Board, University, etc.). It should cover all types of library materials and should be revised periodically to ensure that it reflects current policies.

2. Maintain a library service policy

    Your library's written service policy should cover registration policies, programming, free distribution of materials, bulletin boards and displays and all library activities and services that could have an impact on access to materials or facilities.

3. Maintain a clearly defined procedure for handling complaints

    Keep a copy of the complaint procedure at every public service contact point. Be sure to specify that the complaint must be filed in writing and that the name and contact information of the person filing the complaint must be included.

4. Maintain in-service training

    Conduct regular training sessions for staff, administration and the library's governing authority to ensure that all are familiar with the materials selection policy, the service policy and the procedures for handling complaints.

5. Maintain open lines of communication with civic, religious, educational and political bodies of the community. When members of the library's board or its staff address local civic organizations, they should emphasize the library's selection process and be prepared to describe and explain the principles of intellectual freedom.

6. Maintain a vigorous public information program on behalf of intellectual freedom

    The library should keep the news media informed of activities pertaining to intellectual freedom, as well as library policies concerning resource selection and use.

7. Be aware of current municipal and state legislation about intellectual freedom and First Amendment rights

What to do When the Censor Comes

The following list is suggested steps for dealing with oral complaints or expressions of concern. These steps are recommended by the ALA Office of Intellectual Freedom in the document, How to Respond to Challenges and Concerns about Library Resources. These guidelines apply whether the concerns expressed are about book selection or about other resources and services, such as programs in the library, free distribution of materials or bulletin boards and displays. The same

principles apply in dealing with the frequent suggestions concerning the labeling of materials to indicate content.

These guidelines apply to complaints from library staff members as well as complaints from library patrons. A library administrator who receives a suggestion or a complaint from a staff member should handle it as seriously as one from a patron, and with equal respect.

Keep these guidelines handy and review them with staff regularly.

1. Acknowledge that every person has the right to question library resources, and a library user with a complaint should feel confident that her concerns will be taken seriously. Listen thoughtfully and respectfully. Try to elicit the specific reason for her concern, whether she has read the entire work or only parts, and the specific action she would like library staff to take.

2. Do not make promises of taking action or appear to agree with the individual. Instead, offer assistance in finding something else that would better meet the person's needs.

3. If the person requests the item be removed from the library's collection, explain that although the individual may be offended by the library resource, others may not have the same perspective. Describe how library materials are selected. Libraries have diverse collections with materials from many points of view, and a library's mission is to provide access to information for all users. All library users have the First Amendment right to borrow, read, view, and listen to library resources.

4. If the individual is concerned about a children's or young adult resource, explain that parents and guardians play the major role in guiding their children's or wards' reading and library use. Often a person's concern about a children's or young adult book involves a desire to "protect all children" by removing that item from the collection or restricting access to it. Explain that each family has the right to determine which library materials are acceptable for its children and must accord the same right to other parents.

5. Avoid giving personal opinions.

6. Many expressions of concern end after the individual has had an opportunity to express personal feelings about a library resource. The person only wanted to be heard and have his opinions acknowledged. No further action is needed. If this is the case, thank the person for his interest, make notes about the conversation, and file them for future reference. Additionally, report the conversation to the library director or principal.

7. If the concerned individual is not satisfied during the discussion and wants the item removed, explain the formal reconsideration process and its time line. Often persons who have a concern would like immediate action and are not aware of the length of time this procedure takes. State what your policy says about the availability of the material during the reconsideration process. Best practice is that the material under reconsideration will not be removed from use or have access restricted pending completion of the process.

8. Provide a copy of the library's collection development policy and reconsideration form. Stress that no action is taken unless the form is fully completed, signed (identifying the individual or group), and submitted. Explain that the submission of a completed form will trigger the formal reconsideration process, and that the document will become part of the public record.

9. After the conversation, make notes about the conversation, date them, and retain the information to provide background in the event that a request for formal reconsideration form is filed. Remember that all such notes become part of the record of the reconsideration process and may become public records.

10. Keep your director or principal informed of any concerns expressed, whether you feel they have been successfully resolved or not. Knowing that a concern was expressed helps that individual respond knowledgeably if the concerned person contacts her. You can contact the MLA Intellectual Freedom Panel and the ALA Office for Intellectual Freedom (oif@ala.org) to inform them of the complaint and/or to enlist their assistance.

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INTERNET FILTERING

Shortly after Internet access became common in U.S. libraries, the use of Internet filtering software began to increase. Internet filters attempt to block access to web sites or pages with content such as pornography, hate speech, gratuitous violence or other materials that may be considered objectionable to some patrons. Both the American Library Association (ALA) (See: Internet Filtering: an Interpretation of the Library Bill of Rights) and the Maryland Library Association Intellectual Freedom Panel (MLA IFP) maintain that the use of Internet filtering software blocks constitutionally protected speech and is therefore a form of censorship.

The issue of Internet filtering is a difficult one for librarians. Librarians celebrate the Internet as an open forum of free expression, but this very openness can also serve as a conduit for illegal forms of expression. Many librarians believe that if filtering software were sophisticated enough to successfully block only inappropriate web sites, then filter use in libraries might be acceptable. The reality in today's libraries is that current Internet filters tend to over-block material, that is, they sometimes block legitimate sites along with those deemed objectionable. Filtering technology continues to be refined to produce more accurate results, but over-blocking still occurs in all current versions of software on the market. Furthermore, the structure of the web, with the constant change of vast amounts of materials, will prevent Internet filters from blocking all objectionable materials for the foreseeable future. This information is often overlooked or ignored by those who recommend filters as a method to protect children. In the end, the use of Internet filters can give patrons a false sense of security.

Librarians cannot guarantee that a child will never be exposed to objectionable Internet material (or for that matter, an unsavory book or verbal exchange). Yet under current Maryland law (Maryland Code 23-506.1) county libraries are required to "implement policies and procedures to prevent minors from obtaining access through the library, by means of the Internet, the World Wide Web, Usenet or any other interactive computer service to materials that are obscene or constitute child pornography." The only way to fully prevent such access is to ban children from using the Internet altogether.

The best way to deal with inappropriate use of the Internet in the library is to create and post an Acceptable Use Policy to educate patrons about responsible use of the Internet. Such policies focus on the behavior of patrons and not on the content of the web page. According to the ALA document, "Libraries and the Internet Toolkit: Internet Use Policies", a good Internet use policy:

- Sets forth reasonable time, place, and manner restrictions;
- Expressly prohibits any use of library equipment to access material that is obscene or child pornography; and in the case of minors, "harmful to minors" materials, consistent with any applicable state or local law (for additional information, see "Legal Section" of the toolkit);
- Provides for the privacy of users with respect to public terminals;
- Protects the confidentiality of records, electronic or otherwise, that identify individual users and link them to search strategies, sites accessed, or other specific data about the information they retrieved or sought to retrieve; and
- Informs users if filters are being used.

If any Internet filtering technology is used, the policy should clearly state that, in keeping with the Supreme Court's 2003 decision, adults have the right to request filters be disabled, without justification, and in a timely manner. The policy should include clear instructions for making such requests. Libraries should also consider taking the following actions:

- Communicate the relevant policies for use of Internet-access computers to all library users, and include the parents of children who may use the library without direct parental supervision.
- Post notices at all Internet-access computers informing users that "utilizing library equipment to access illegal materials as specified in the Internet use policy is prohibited.
- Offer a variety of programs (at convenient times) to educate library users, including parents and children, on the use of the Internet, and publicize these programs widely.
- Create a list of recommended Internet sites for library users in general. In the case of youth and children, according to age group, offer direct links to sites with educational and other types of material best suited to their typical needs and interests. For additional information see "Children 10 Years of Age and Under" and "Teens 11-17 Years of Age" sections under "Safety & Responsibility" in this toolkit.

Use policies can also address other behaviors, such as use of the Internet for harassment, copyright infringement, unauthorized access, and so on.

Some good examples of Acceptable Use Policies include:

- Ames Public Library - http://www.amespubliclibrary.org/Docs_PDFs/Policy/InternetUsePolicyandGuidelines.pdf
- Multnomah County Library - http://www.multcolib.org/about/pol-internet.html

The following points about Internet filters are important to keep in mind:

1. The use of filters is a form of censorship, not selection

> Some proponents of filters have argued that no library would deliberately include objectionable content in its collection, and therefore no library should allow access to it on computers. By providing access to the Internet, however, we are selecting that entire body of information, or billions upon billions of individual web pages. Trying to block specific parts of the Internet has been likened to removing pages of an encyclopedia or marking out offending words in a dictionary. This censorship technique is known as expurgation (see the ALA discussion titled,
> "Expurgation of Library Materials: an Interpretation of the Library Bill of Rights").
> Furthermore, control of materials blocked through filters is not in the hands of librarians, but rather is determined by the company creating the filtering software. Such companies generally do not disclose their methods of blocking or their lists of materials being blocked.

2. Library patrons have the right to view constitutionally protected images as well as text

> Library patrons could have perfectly legitimate reasons to view images that might be disturbing or distasteful to other patrons. Some libraries use privacy screens or recessed computer displays, both to protect the confidentiality of the user's access and to shield a passerby from unwanted imagery. A claim that such images create a hostile environment or are harmful to minors is a poor argument for censoring images. In the hostile environment argument, more explicitly offensive behavior is usually involved in the definition of what constitutes a hostile environment. Inappropriate behaviors by patrons

should already be covered under the library's patron behavior policy. As for ideas or images being harmful to minors, adults must understand that children will be exposed to images, words and ideas, that some may find objectionable, and cannot be completely protected from them. Perhaps a better solution is to encourage parents to talk with their children about the possibility of finding troublesome materials on the Internet and to teach their children how to use the Internet responsibly.

See the following web sites for guidance on responsible Internet use for children:

- KidsCom - http://www.kidscom.com
- SafeKids.com - http://www.safekids.com
- ALA " Libraries and the Internet Toolkit: Tips for Parents"

3. If your library relies on the federal e-rate discount, there are ways to mitigate the use of filters.

The United States government has encouraged the use of Internet filters by passing the Children's Internet Protection Act (CIPA). CIPA forces libraries that receive federal e-rate discounts to have filters on all Internet computers, although a filter must be turned off at the request of any adult. There are library systems that have decided to forgo the e-rate discount in order to uphold the cause of intellectual freedom. MLA's Intellectual Freedom Panel salutes these systems, with the understanding that not all libraries can afford to decline the discount to obtain Internet access.

ALA provides information for libraries about implementing filtering on their "CIPA" web site. The American Civil Liberties Union (ACLU) also offers suggestions in their memorandum titled, "Library filtering after US v. ALA: What does it all mean and what should we do." ACLU suggestions include:

- posting a legal notice in a prominent location near each computer
- creating or installing software that blocks only visual depictions
- joining ALA in pressuring software companies to make public their lists of blocked sites
- establishing a policy of switching off filtering software for any adult who requests such
- setting up a method of turning off the filtering software without a face-to-face request
- setting up a method by which any patron can anonymously request to unblock a site
- establishing a policy for dealing with minors

In conclusion, Internet filters are fine for individuals to use in their own homes, but they should not be used in a library.

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THE IMPORTANCE OF GOVERNMENT INFORMATION

Traditionally, government information available in libraries and on the Internet has been an important resource on the nature of our society, the debates impacting social and economic policy and the development of political priorities for the citizenry. Such material is as varied as statistical studies, hearings on government policy and studies of the impact of past policy decisions, to name a few areas of documentation.

However, in the years following the terrorist events of September 11, 2001, there has been increased debate over what information should be freely provided. Attempts have been made to limit access to information on the basis of claims that such information may be of use to terrorists. The American Library Association's Government Documents Roundtable (GODORT) has been active in this debate.

There is widespread concern about the new administration of 2017 removing and restricting access to publicly available governmental information. Shortly after the 2017 inauguration, multiple federal agencies were restricted from communicating with the public via methods such as social media and news releases. Agencies tasked with scientific and environmental policy (such as the EPA) seemed to have been targeted. More recently, the EPA's educational website on climate change (https://epa.gov/climatechange) has been taken down. An attempt to visit the URL of the above site results in a redirect to a page that states, "We are currently updating our website to reflect EPA's priorities under the leadership of President Trump and Administrator Pruitt."

A danger exists for the government to overstate the risks involved in the provision of such information and the temptation is to avoid disclosing information that may reflect negatively on past and present policy decisions. It is the position of the MLA Intellectual Freedom Panel (IFP) that all government information should be accessible to the maximum degree possible and that access should be limited only based on obvious security, privacy or similar reasons. Attempts to overly restrict access to government information must be resisted.

Librarians must also recognize that the tendency toward restricting government information occurs not only on the federal level, but also within state and local governments. It is the responsibility of librarians to encourage the maximum flow of information at all levels of government. At the local level, Maryland Library Association's Government Information Interest Group (GIIG) conducts programs and activities toward maximizing this flow of information. GIIG also monitors developments at the federal level and makes appropriate information and recommendations available on how to respond to such restrictions.

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THE USA PATRIOT ACT AND LIBRARIES

Immediately after the terrorist attacks of September 11, 2001, the U.S. Administration sought new legislation to expand the government's powers in the areas of surveillance and investigation. The major legislative initiative was the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT ACT). Almost immediately the American Library Association (ALA), as well as a variety of state and local library organizations, expressed their strong opposition to parts of the Act as violating the library community's long-time commitment to privacy and to freedom of access to information (see "Resolution on the USA Patriot Act and Related Measures That Infringe on the Rights of Library Users" and "USA Patriot Act Resolutions of State Library Associations").

Of concern was the portion of the Act that prohibited librarians from informing patrons or even colleagues that material, resources or records were the object of an investigation.

ALA has since produced numerous documents that relate to the USA PATRIOT Act. Of note is a brief summary of the impact of the Act on libraries (see "The USA Patriot Act in the Library") and, because provisions of the Act place special requirements on librarians, a document on how to respond to warrants under the Act titled, "USA Patriot Act Search Warrant."

In June 2004, ALA updated two important documents. "The Freedom to Read Statement" was amended to include language addressing the perceived danger "that censorship and suppression are needed to counter threats to safety or national security, as well as to avoid the subversion of politics and the corruption of morals." The document further stated that "The shadow of fear cast by these pressures leads… …to an even larger voluntary curtailment of expression by those who seek to avoid controversy or unwelcome scrutiny by government officials." The second document, "Policy on Governmental Intimidation," re-emphasized the stance of the profession against government policies that intimidate users in the legitimate exercise of their freedom of expression.

On March 9, 2006, legislation reauthorizing the USA PATRIOT Act was passed. The reauthorization made some minor changes in the Act, specifically related to Section 215, allowing access to library records, materials and resources, and Section 505, on the issuance of National Security Letters. The reauthorization extends the sunset provision of Section 215 to December 31, 2009. It also slightly tightens the rules governing access to library materials and records. Under the original Act "the FBI had only to assert records were sought of an authorized investigation." Under the new legislation the FBI can obtain such items if it has reasonable ground to believe the records are relevant to an authorized investigation. The reauthorization also slightly loosens the rules on who may be informed when an investigation is ordered and allows for challenges to these so-called "gag orders" after one year. Section 505 was amended to slightly tighten and revise the issuance of National Security Letters and revises the means of challenging such letters.

The Patriot Act was amended and extended in both 2009 and 2011 until June 1, 2015. Although certain provisions of the Patriot Act briefly expired in 2015, they came back into effect with the passage of the USA Freedom Act. The Freedom Act reauthorized parts of the Patriot Act but bans the bulk collection of phone records and metadata and restricts the government from collecting all records from say a certain geographic area. The ALA hailed the Freedom Act as a milestone in surveillance reform.

Despite the progress in rolling back some of the more objectionable aspects of this legislation, there

is still working to be done in protecting civil liberties and privacy. In most aspects the law is still an impediment to privacy and due process.

Because of the important legal, personal and privacy ramifications of the Act, it is important that library staff be trained in how to respond to the various types of legal documents that might be served on the Library (subpoenas, search warrants, FISA warrants, etc.) and how they may vary (see "Confidentiality and Coping with Law Enforcement Inquiries"). Libraries should also have procedures in place for consulting with their legal counsel if such documents are served.

The USA PATRIOT Act, like any legislation, is subject to ongoing revision. For the latest information, consult the many web links referenced in this article, as well as the American Civil Liberties Union (ACLU) web site "USA PATRIOT Act" and the U.S. Department of Justice web site "Preserving Life & Liberty."

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PRIVACY AND CONFIDENTIALITY OF PATRON RECORDS

One major concern of libraries is the privacy and confidentiality of patron records. These records can include circulation records, web use logs and general patron information, such as names, street addresses and social security numbers. The passage of the USA PATRIOT Act (H.R. 3162) has given this concern a new urgency. In response to the Act, the American Library Association (ALA) has resolved that:

> "…(ALA) opposes any use of governmental power to suppress the free and
> open exchange of knowledge and information or to intimidate individuals
> exercising free inquiry…ALA considers that sections of the USA PATRIOT
> Act are a present danger to the constitutional rights and privacy rights of
> library users"
>
> Source: Resolution on the USA Patriot Act

If libraries adhere to this resolution, then the following actions should be taken to ensure that patron privacy is protected:

1. Maintain a current, written policy concerning the confidentiality of patron records

   A written policy on patron records can be used as a training and reference guide for library staff and as a policy statement to answer any community or patron questions. A library's written policy should be easily accessible in either a print or an electronic format.

2. Ensure that library procedures are secure regarding patron records

   Libraries may need to thoroughly revisit and revise the procedures they follow when handling and storing confidential library information. Consider both print and electronic storage mechanisms. Should circulation records automatically purge after each transaction (including hold and overdue/lost items)? Should web logs be minimized or possibly disabled? Consider how long to retain each type of patron record.

3. Understand Maryland State Law concerning the privacy of patron records

   Libraries and librarians should become informed of the Maryland State Government Code Ann. § 10-616 regarding Access to Public Records.

4. Train library staff on issues of confidentiality and privacy

   A well-crafted written policy concerning the confidentiality of patron records can be used as a basis for any library staff training. Additional materials, such as checklists and activities are readily available online and in ALA monographs.

   Radio Frequency Identification (RFID) in Libraries: Benefits and Privacy Concerns

   Radio Frequency Identification is a term for devices that use radio waves to track and identify individual items. RFID tags are placed in items and a reader picks up the radio frequencies emanating from the tags. RFID tags are currently in use in automatic toll collection systems, wireless car keys and livestock and military armament tracking devices. Several prominent national, state and city library systems have begun using RFID tags to secure and track library collections and materials. In RFID technologies, unlike bar code

systems, the reader does not require a clear line of sight, meaning that radio waves can be read through a variety of materials, including walls. Placed in books, RFID tags can transmit whatever detail is encoded, such as a title, author and/or an ISBN and can be read at a variety of ranges depending on the power of the reader. The cost for RFID tags is currently four to five times greater than using a combination of the more traditional bar code and magnetic strip.

The use of RFID technology in libraries provides a number of substantial benefits, but also poses some privacy concerns. RFID promises to decrease repetitive use syndromes, to speed library checkout and to hasten the library inventory process (see "RFID and Libraries: Both Sides of the Chip").

Privacy Concerns

The concern with RFID systems in libraries is that tags containing static information can be easily read by unauthorized readers. Anyone with a powerful enough reader could covertly identify the items a person is carrying or even what items a person owns in a home or an office. This opens up privacy issues known as "tracking" and "hotlisting." Tracking is the ability to track the movement of a book (and consequently, the person carrying the book) by correlating multiple readings of the tag. Hotlisting is the process of creating a database of particular books and their tag numbers (hotlist) and, by unauthorized readings, determine who is checking out items from that list. Molnar and Wagner state that, "Hotlisting is problematic because it allows an adversary to gather information about an individual's reading habits without a court order" and, "With current architectures, hotlisting is possible: each book has a single static identifier, and this identifier never changes over the book's lifetime."

To counter the potential invasion of privacy, libraries employing RFID technology should consider using any of a number of strategies. Libraries may simply choose to disable RFID tags once they leave the library. Libraries can install short-range radio tags, which can be read only up to a distance of one foot. Another viable option is to avoid using a single static identifier and instead use different library item identifiers to make hotlisting more difficult. Encryption would not prevent unauthorized readings, but would make the data illegible.

If a library decides to use RFID, a good first step is to inform their patrons, so that they may make an informed choice in their borrowing decisions.

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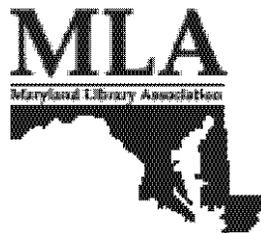
Maryland Library Association
1401 Hollins Street
Balitimore, Maryland 21223