

Eckhart Public Library, Auburn, Indiana  
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# Intellectual Freedom 101

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# Objectives: Participants will

- **Gain a greater understanding of the**
  - **Roots, Value and Meaning of**
- **First Amendment liberties of**
  - **Speech, Press, Religion, and Assembly in**
- **American society and American libraries.**

# Two Simple Definitions

- ***Censorship: Someone else decides*** what you can read, view, listen to or otherwise access.
- ***Intellectual Freedom: You decide*** what you read, view, listen to or otherwise access.
  - Being ***against*** censorship – can send a negative message.
  - Being ***for*** Intellectual Freedom – sends a positive message.

# Clarifications

- **Censorship by government bodies is generally unconstitutional.**
- **Public libraries are government bodies.**
- **Calling for censorship isn't. That's free speech!**
- ***Choosing not to stock, sell, broadcast, publish, etc. is still censorship in the broadest sense – but it is also a constitutional right.***

# Foundations of Intellectual Freedom in the U.S.

- **The Golden Rule**
  - American sense of “fair play” & practicality
  - “What’s good for the goose is good for the gander.”
  - “I’ll scratch your back; you scratch mine.”
  - “Mutual respect”
- **The United States Constitution**
  - Codified in its “Bill of Rights” (Amendments 1-10)

# ***The Bill of Rights***

- **Is the basis for intellectual freedom in the U. S.**
- **Affirms fundamental liberties.**
- **Is an integral part of the Constitution.**
- **IS NOT extra or an after thought.**
- **IS NOT legislation – in the ordinary sense.**
- **IS NOT simply valued by the left OR right.**

# The *Bill of Rights*... 2

- *Cannot* be overridden by vote of
  - Congress,
  - State Legislatures,
  - City Councils, or
  - Library Boards
- *Can only* be changed by
  - Constitutional amendment
  - Supreme Court interpretation
  - Community pressure (sad but true)

# The *Bill of Rights*... 3

- Reflects the *personal experiences* of the Founders.
  - *Living memory* of religious persecution.
  - *Abuses* of the rights of English people by the British Crown
    - particularly of speech and the press
  - a long, bloody *revolution*, and
  - a period of intense *insecurity!*

# The Founders

- *Optimists*
  - Established a republic
  - Established a representative democracy
  - Established something *new*
    - no other operating representative democracies
  - Trusted the body politic
  - Deists and Free Thinkers (Jefferson & Franklin)
- *Pessimists*
  - Established a system of checks and balances
  - Wrote rights into the Constitution
  - Did not trust individuals
  - lots of Calvinists

# But Why These Specific Liberties?

- Our form of government is
  - *A republic* and a
  - *A representative democracy*
- Therefore we need
  - *informed* citizens to elect *informed* representatives and
  - *a free marketplace of ideas* in which to debate issues.

# The 1<sup>st</sup> Amendment Liberties

- ***Religion*** (of, for and from)
- ***The Press***
- ***Speech***
- ***Petition***
- ***Assembly***
  - These five freedoms = *intellectual freedom*
  - The freedom to read, view, listen to or access
    - what you will
    - with whom you will and
    - to complain (petition) if you don't like it.

# Corollary 1<sup>st</sup> Amendment Rights

- to *receive* information

- *Courts have held* that for the 1<sup>st</sup> Amendment to have meaning people have to be able to *receive* information.

- to *privacy*

- Legislatures in 48 states have passed *library confidentiality laws* that recognize that people have to be able to read, view, listen to or access materials without fear of *reprisal* (i.e., suffering a *chilling* effect on the exercise of their fundamental rights).

# 1<sup>st</sup> Amendment Limits

- Generally, courts have held that the only restrictions permitted are
  - *time*
  - *place*
  - *manner*

# 1<sup>st</sup> Amendment Exceptions

- Short list: Obscenity, libel, slander, fighting words, child porn, national security, etc.
- Laws authorizing exceptions *must address*
  - a “compelling government interest” *and*
  - must be “narrowly tailored”
- *Only a court* can determine if “speech” is obscene or otherwise not constitutionally protected.

# Connecting Public Libraries and the 1<sup>st</sup> Amendment

- Courts have applied the Bill of Rights to public libraries via the concept of a *public forum*.
- *Traditional public forums*
  - Parks, sidewalks, etc.
  - Any one may engage in constitutionally protected speech
- *Limited or designated public forums*
  - Fairground grand stands
  - School auditoriums – after hours
  - Public libraries

# Public Forums, cont'd

## ■ Public Libraries

- are *designated, limited public forums* for the *receipt* of information.
- *may ban or regulate behavior* that interferes with their purpose as a limited designated public forum.
- *may designate* and define space (e.g. *meeting rooms, exhibit space* and *literature distribution space*) for the *exchange* of information, etc.
- Once *space* is made available only *time, place and manner* restriction should be used – not content or purpose.

# Intellectual Freedom Doc's

## ■ ALA Docs

- <http://www.ala.org/ala/aboutala/offices/oif/index.cfm>
  - Library Bill of Rights – core document
  - Interpretations of the Library Bill of Rights
  - Misc. IFC docs, e.g. “Q&As”
  - Freedom to Read Statement
  - Code of Ethics
  - *Intellectual Freedom Manual*

## ■ ILF Docs

- <http://www.ilfonline.org/units/policies-forms/>

# *ALA's Library Bill of Rights (LBOR)*

- The *LBOR* is a professional policy document.
  - It provides guidance for libraries and librarians.
  - It is based on the Bill of Rights.
- The *LBOR* is *not* a legal document
  - It is not enforceable.
  - There are no sanctions for failure to live up to it.

# ALA's *LBOR* – A Summary

- I. Books, etc. should:
  - be provided for . . . *all* people of the community.
  - not be excluded because of who created them.
  
- II. Books, etc. should:
  - present *all* points of view . . . issues.
  - not be excluded for partisan or doctrinal reasons.

# Balance

- ***Balance*** means having a mix of resources representing all viewpoints on an issue of interest to a community within the library's fiscal restraints.
- ***Balance*** does not mean having an equal number of resources for two sides of an issue. There are always multiple viewpoints.

# Who Can Try to Censor Public Libraries?

- ***Anyone*** is free to *advocate* censorship.
  - a First Amendment right
- ***Government*** bodies (state, federal and local) *may not* censor.
- ***Private voluntary associations*** can *limit* the rights of their members.
  - Members free to leave
- ***Parents*** can and should guide the reading, viewing or listening of their children.
  - *but only* their children

# Where Do Challenges Come From?

- ***Every and anywhere*** – no geographical, social or economic limits
- ***Anyone*** – no age, political, educational, ethnic or religious limits
- ***For Any Reason*** – sexual content, inappropriate language, religious views, political views, social values, etc. – from the left, right, middle and off the wall.

# Religion in American Libraries

- **Best practices**
  - **Have something to please everyone.**
  - **See that all segments of one's community are represented in the library.**
  - **Same as political views, religions, hobbies, etc.**
  - **Treat religious materials and religious groups just as you would any material or group.**
  - **Build bridges not walls – before problems arise.**

# Religion... 2

- **Collections and Websites**
  - Equitable Selection, Availability, & Organization policies
- **Labels and Labeling**
  - Describe not Prescribe
  - Avoid symbols
- **Meeting Rooms, Exhibit Space, & Literature Distribution**
  - Apply the same principles.

# Religion... 3

- **Our communities and our users include the religious, the non-religious and the anti-religious.**
  - **AKA the “churched” and the “unchurched.”**
- **Show neither favor nor disfavor, approval or disapproval of/for religion or the religious.**

# Religion...4

- The purpose of libraries is to provide a limited public forum for the receipt of information *not* to provide an traditional public forum for self expression or a means of advancing one's religion (or lack thereof).
- A public library serves its whole community no matter how vocal, loud, devoted or committed the individual or group.
  - Not just the majority
  - Not just a minority

# Patrons & Religion

- **Anyone can ask for special treatment.**
- **You have no obligation to give it.**
- **Treat everyone respectfully and equitably.**

# Library Employees & Religion

- Work place is NOT a forum for personal expression.
- One persons free expression is another person's harassment
  - Hostile work environment
  - Proselytizing
- Focus on behavior not belief.

# Library Employees & Religion... 2

- Anything that interferes with the library's mission may be regulated.
- Working in a library does not give one greater or fewer constitutional protections
  - Government employees are not empowered to censor.
  - Only a judge may determine if speech is not constitutionally protected.

# **We Serve Everyone**

**A good public library has  
something of interest to  
everyone in its community  
and something to offend them too.**

# Contact

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- Chair, ALA Intellectual Freedom Committee
- Past Chair, IFL Intellectual Freedom Committee
- Member, Freedom to Read Foundation, Board of Directors

# Resources

- Office for Intellectual Freedom. ***Intellectual Freedom Manual***, 8<sup>th</sup> Ed. (Chicago: ALA, 2010)
- Doyle, Robert. ***Banned Books: Challenging Our Freedom to Read***. (Chicago: ALA. 2010)
- Office for Intellectual Freedom. ***Choose Privacy Week: Resource Guide***. (Chicago: ALA, 2009)
- ***Newsletter on Intellectual Freedom***. (Chicago: ALA)

# Support

- **ILF 's Intellectual Freedom Committee**
  - <http://www.ilfonline.org/>
- **ALA's Office for Intellectual Freedom**
  - <http://www.ala.org/offices//oif>
- **Freedom to Read Foundation**
  - <http://www.ala.org/groups/affiliates/relatedgroups/freedomtoreadfoundation>
- **American Civil Liberties Union of Indiana**
  - <http://www.aclu-in.org/>