

**ALA Intellectual Freedom Committee**  
Report to Council

2003 Annual Conference  
Toronto, Canada

Wednesday, June 25, 2003

The ALA Intellectual Freedom Committee (IFC) is pleased to present this update of its activities. This report covers the following topics: the CIPA lawsuit, privacy tools, ALA Meeting Rooms policy, IFLA Glasgow Declaration, and media concentration.

***Children's Internet Protection Act (CIPA)***

On Monday, June 23, in a 6–3 decision, the Supreme Court issued its opinion in the CIPA case. In a very narrow plurality decision, the Court reversed the ruling from the Third Circuit Court of Appeals and upheld the federal law.

Five justices agreed with the lower court that filtering software blocks access to a significant amount of constitutionally protected speech. Justices Stevens, Souter and Ginsburg dissented from the judgment on the ground that blocking software blocks access to an enormous amount of constitutionally protected speech. Justices Breyer and Kennedy, each of whom filed concurring opinions, joined only in the judgment of the plurality and not the opinion. They agreed with Justices Stevens, Souter and Ginsburg that filters block access to constitutionally protected speech.

Justices Breyer and Kennedy joined in the judgment that the law should be upheld only because the Court adopted Solicitor General Theodore B. Olson's interpretation of the statute that any adult could request the librarian disable the filter and the librarian would do so. In addition, they agreed that the disabling function should be accomplished quickly and easily. Further, Justice Kennedy implied that it is incumbent on filtering companies to develop devices to disable filters easily and quickly. If these companies do not do this, the Justice implied library users may have a cause of action.

Although not what we hoped for, this decision provides us an opportunity to shed some light on the filtering process, specifically, what is being filtered, according to what criteria, and by whom. We will work with OITP, other ALA units, major filtering companies, and librarians throughout the profession to analyze this decision, determine next steps, and move forward.

Despite this ruling, the responsibilities of librarians to provide access to constitutionally protected materials have not changed. We will continue to support access to information by library users of all ages.

Please continue to visit [www.ala.org/cipa](http://www.ala.org/cipa) for the most up-to-date information.

## *Privacy*

As reported at the Midwinter Meeting, the IFC is developing a *Privacy Tool Kit*, similar in style and purpose to the *Libraries & the Internet Tool Kit*, to assist librarians in protecting users' privacy. At the 2002 Annual Conference, Council adopted *Privacy: An Interpretation of the Library Bill of Rights*. Subsequently, the IFC drafted *Questions and Answers on Privacy*, distributed last summer and updated in January 2003, with additional updates coming soon. While these documents provide a framework for understanding privacy considerations in libraries, many ALA members have requested additional tools to help them develop the policies and procedures that their local libraries need now. After ALA's Midwinter Meeting, the committee began drafting text for the *Privacy Tool Kit*.

IFC's first effort toward a *Tool Kit* is *Guidelines for Developing a Library Privacy Policy*. The IFC urges libraries to develop and/or revise their confidentiality and privacy policies and procedures in order to protect confidential information from abuse and their organizations from liability and public relations problems. With technology changes, identity theft, and new laws, as well as increased law enforcement surveillance, libraries need to ensure that they:

- Limit the degree to which personally identifiable information is monitored, collected, disclosed, and distributed.

- Avoid creating unnecessary records.

- Avoid retaining records that are not needed for efficient operation of the library, including data-related logs, digital records, vendor-collected data, and system backups.

- Avoid library practices and procedures that place personally identifiable information on public view.

The *Guidelines* are based in part on what are known as the five "Fair Information Practice Principles." These five principles outline the rights of **Notice, Choice, Access, Security, and Enforcement**. At this conference, the IFC held an open hearing on these draft *Guidelines for Developing a Library Privacy Policy*. We encourage all ALA members to review the draft and contact the Office for Intellectual Freedom (oif@ala.org) to recommend changes and to let us know whether the document helped their libraries develop new policy language. The attached draft model policy document (2002–2003 CD#19.5) includes 3 sections:

- Guidelines for Developing a Library Privacy Policy

- Model Privacy Policy

- Conducting a Privacy Audit

A link to the draft *Guidelines for Developing a Library Privacy Policy*, prepared by the ALA Intellectual Freedom Committee (IFC), is also available at:

[http://www.ala.org/Template.cfm?Section=Related\\_Links8&Template=/ContentManagement/ContentDisplay.cfm&ContentID=36321](http://www.ala.org/Template.cfm?Section=Related_Links8&Template=/ContentManagement/ContentDisplay.cfm&ContentID=36321) or at: <http://tinyurl.com/f6ie>.

Other sections of the *Tool Kit* still under development include:

- Federal and State Privacy Laws and Policies

- Court Orders

- Guidelines for Dealing with Law Enforcement Inquiries (available on the OIF Web site)

- Privacy Procedures

### ***ALA Meeting Room Policy***

Recent incidents, including those involving a white-supremacist group, prompted the IFC to review ALA's *Meeting Rooms: An Interpretation of the Library Bill of Rights*. An IFC subcommittee also reviewed and discussed problems libraries face regarding meeting room use, policies and procedures, and considered recent case law. Following this process, the IFC determined that the ALA policy remains a strong statement of professional commitment that needs no changes. Nevertheless, the IFC wanted to hear if other ALA members had concerns or questions about the policy. The committee hosted an open forum at the ALA Annual Conference in Toronto on Saturday, June 21, 2003, and concluded that members' input about their experiences with library meeting room policies and procedures reaffirmed IFC's determination that a revision to this policy is unnecessary at this time.

### ***Lawyers for Libraries***

Lawyers for Libraries, an ongoing project of OIF, is creating a network of attorneys involved in, or concerned with, the defense of the freedom to read and the application of constitutional law to library policies, principles, and problems.

OIF conducted two very successful institutes in the last few months, one in Washington, D.C., and the other in Chicago, IL; a third is scheduled for San Francisco (October 16–17, 2003). Additional institutes will be announced soon. Topics discussed include the USA Patriot Act, Internet filtering, meeting room and display area policies, and how to defend against the censoring of library materials.

These sessions are open to lawyers and library trustees; librarians also may attend, if accompanied by an attorney. For more information about the Lawyers for Libraries project, please contact OIF at [lawyers@ala.org](mailto:lawyers@ala.org) or 1-800-545-2433, ext. 4226.

## **COUNCIL ACTIONS**

### ***IFLA Glasgow Declaration***

On August 19, 2002, the Council of the International Federation of Library Associations and Institutions (IFLA) adopted *The Glasgow Declaration on Libraries, Information Services and Intellectual Freedom*. The committee unanimously voted to endorse this declaration and urges Council to adopt it. Therefore, the IFC moves adoption of the IFLA document: *The Glasgow Declaration on Libraries, Information Services and Intellectual Freedom* (<http://www.ifla.org/faife/policy/iflastat/gldeclar-e.html>), 2002–2003 CD#19.3.

### ***FCC Rules on Media Ownership***

The IFC placed the issue of the FCC Media Ownership rules on its Annual Conference agenda in order to consider its impact on diversity of ideas and access to information in local libraries. We were delighted after several Council members introduced a resolution on the Council e-list on this issue and invited them to join our discussion about both current and future ALA actions related to media diversity. The committee reviewed and revised the Council members' resolution, incorporating text about ALA policy

(i.e. the *Library Bill of Rights*), and highlighting how media ownership affects libraries and free expression in local communities. The IFC also will establish a subcommittee to study the impact of media consolidation on libraries and recommend appropriate actions.

The IFC moves adoption of *Resolution on New Federal Communications Commission (FCC) Rules and Media Concentration, 2002–2003 CD# 19.4.*

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In closing, the Intellectual Freedom Committee thanks the Division and Chapter Intellectual Freedom Committees, the Intellectual Freedom Round Table, the various unit liaisons, and Judith Krug, OIF director, and staff, Beverley Becker, Deborah Caldwell-Stone, Jen Hammond, Jonathan Kelley, Nanette Perez, and Don Wood, for their commitment, assistance, and hard work.

Respectfully Submitted,

ALA Intellectual Freedom Committee

Nancy C. Kranich, Chair

Bob Diaz, Intern

Hector Escobar, Jr., Intern

Leonard B. Kerson

Jim Kuhn

Deborah Miller

Candace D. Morgan

Peg Oettinger

Melora A. Ranney Norman

Stephanie C. Sarnoff

Pat R. Scales

Lynn Sutton

Vivian R. Wynn