



FREEDOM TO READ FOUNDATION REPORT TO COUNCIL

EDITOR'S NOTE: This report was presented by Charles Brownstein to the American Library Association's 2019 Midwinter Meeting in Seattle, Washington.

As president of the Freedom to Read Foundation, it is my privilege to report on the Foundation's activities since the 2018 Annual Conference.

Litigation

This fall, the Freedom to Read Foundation (FTRF) agreed to participate as an *amicus curiae* in two new lawsuits raising important First Amendment issues.

The first lawsuit, *Ex Parte Jones*, challenges a criminal statute enacted by the Texas legislature that purports to address "revenge porn." The statute bars disclosure of nude images without the consent of the person depicted in the image. However, the law is written so broadly that it could be used to prosecute the distribution of images that are artistic, newsworthy, or educational, such as the image of Phan Thi Kim Phuc, the "Napalm Girl" from the Vietnam War. Under the current version of the law, a librarian who loans out a book containing the image of Ms. Phuc without obtaining her written permission could be arrested and prosecuted in criminal court.

The plaintiffs in the lawsuit have challenged the law on the grounds that it is overly broad and would ban First Amendment-protected materials. The Texas intermediate appellate court ruling on the case agreed with the plaintiffs, and issued a decision finding the law unconstitutional.

That decision is now on appeal before the Texas Court of Criminal Appeals. FTRF has joined an *amicus* brief with the Media Coalition,

American Booksellers Association, Association of Alternative Newsmedia, Association of American Publishers, and the National Press Photographers Association to argue that the statute does not meet the strict scrutiny standard established by the Supreme Court, because it makes no exception for materials that are newsworthy, historic, artistic, or educational and does not have an intent or knowledge requirement. The case was submitted to the appeals court on November 28, 2018, and a decision is pending.

The second lawsuit restarts FTRF's effort to establish a new legal standard that will allow reporters and citizens to pursue First Amendment civil rights claims against police and government bodies when they are arrested while exercising their First Amendment rights to speak, observe, and report at public events, demonstrations, and crime scenes. As you may recall, FTRF filed *amicus curiae* briefs in two earlier cases that urged the courts to adopt this standard. Both cases—*Lozman v. the City of Riviera Beach* and *Higginbotham v. City of New York*—were resolved by the courts on different grounds than the plaintiffs' First Amendment claims and did not reach this important question.

Nieves v. Bartlett represents another opportunity to raise this issue before the Supreme Court. The plaintiff, Russell Bartlett, was arrested at an outdoor festival by Alaska State Troopers and charged with disorderly conduct and resisting arrest. He filed a lawsuit against the Troopers, alleging that he was arrested because he had earlier refused to speak to one of the Troopers and because he challenged their attempt to question a minor about possible public drunkenness without the presence of the minor's parents.

The Supreme Court has granted *certiorari* to address the question of whether the existence of probable cause precludes a First Amendment retaliatory arrest claim or whether the existence of probable cause should be a factor to be considered at trial. FTRF has joined an *amicus* brief with over thirty other organizations and media companies urging the Supreme Court to adopt a balancing test that would allow individuals and journalists to pursue a claim for retaliatory arrest even if probable cause for arrest is alleged by law enforcement. Oral arguments were heard on November 26, 2018. [See *JIFP Fall-Winter 2018*, page 41.]

Developing Issues

The Foundation's Developing Issues Committee has identified several emerging issues that could prompt litigation to preserve the right to free speech, privacy, or access to information. The committee discussed the following issues:

- Big data and librarianship
- First Amendment and the press, focusing on news photographers
- Censorship of library research databases
- K-12 students' rights to freedom of expression, especially with social media
- Increasing infringement on prisoners' right of access to information by state and federal governments
- Content moderation at scale—algorithms and artificial intelligence

The Judith F. Krug Memorial Fund

The Judith F. Krug Memorial Fund supports projects and programs that carry on Judith Krug's lifelong mission to educate librarians and the public about the importance of defending the right to read and speak freely. Its



programs include grants that support and underwrite Banned Books Week activities in libraries, schools, and community institutions across the country, as well as an educational initiative dedicated to supporting and improving intellectual freedom education for LIS professionals and students.

BANNED BOOKS WEEK

This past fall, the Krug Memorial Fund awarded grants to support Banned Books Week observances held by six different libraries and community organizations. The grantees and a description of their events are listed below:

- **Handley Regional Library, Winchester, Virginia:** Library staff hosted an “Edible Banned Books Festival,” where professional and amateur bakers created banned book cake masterpieces. Local patrons and community partners voted for noteworthy banned book delicacies and bid on their favorite cakes to then take home. All money raised was donated to Literacy Volunteers of the Winchester Area.
- **Independence Public Library, Independence, Kansas:** The library sponsored three local events: a community-wide mural competition with a concept of the freedom to read; a debate between the local community college and high school debate teams about censorship; and “Rock the Block: I’m with the Banned,” a community-wide street celebration celebrating the freedom to read.
- **James F. Byrnes High School, Duncan, South Carolina:** The school sponsored a program, “Some Rights Reserved: South Carolina Speaks Out,” with students and staff highlighting book challenges that have occurred in South Carolina

and censorship issues that have arisen in the fields of science, technology, engineering, and mathematics.

- **Moreno Valley High School Book Club, Moreno Valley, California:** The high school sponsored several Banned Books Week activities, including a banned book “cartmobile,” a jailbird photo booth app, a hands-on trivia game, Banned Book Week crafts, and an informal book discussion. This was their first Banned Book Week/Freedom to Read event.
- **Suffolk Public Library, Suffolk, Virginia:** Through the library’s “Banning Books Silencing Stories: Alt Rebels” program, library staff, patrons, and community members of all ages were given the opportunity to explore and focus on banned books as seen through the lens of an alternative universe scenario where books are banned and ideas are dangerous.
- **Winston-Salem State University, Winston-Salem, North Carolina:** The university highlighted books banned across the state of North Carolina in libraries and in prison systems. Interactive week-long activities focused on the 2018 Banned Books Week theme “Banning Books Silences Stories.”

LIS AND PROFESSIONAL EDUCATION

The Krug Fund continues to support FTRF’s successful LIS professional education collaborations with the University of Illinois’ School of Information Science and the San Jose State University School of Information. FTRF Educational Consultant Joyce Hagen-McIntosh provides direct assistance to professors Emily Knox, Beth Wrenn-Estes, and Carrie Gardner as they teach courses on intellectual freedom and censorship, while the Krug Fund provides scholarships to students who wish to attend these classes.

This year, Georgia Westbrook, a library and information science student at the Syracuse University iSchool, is the recipient of the spring 2019 Freedom to Read Foundation scholarship. Westbrook will receive half the tuition for the San Jose State University School of Information (SJSU iSchool) course “Intellectual Freedom and Young Adults.” The course, led by instructor Beth Wrenn-Estes, will focus on intellectual freedom issues with youth, the value of youth literature to enhance individuals’ lives, the ethics of intellectual freedom, the psychology of censorship and how to combat it, and how to defend materials for youth.

We thank the University of Illinois and San Jose State University for partnering with FTRF to assure that high-quality intellectual freedom curricula and training remains available to LIS students preparing for their professional careers.

Fiftieth Anniversary Celebration

READING DANGEROUSLY: FIFTY YEARS OF THE FREEDOM TO READ FOUNDATION

This year the Freedom to Read Foundation celebrates its fiftieth anniversary with two signature initiatives. First, FTRF will publish a retrospective book that will include the organization’s oral history, excerpts from challenged books, interviews with challenged authors, and testimonials. The book will be offered through a crowdfunding campaign this spring. The second initiative is a reception and celebration to be held at ALA’s Annual Conference on Saturday, June 22, 2019, from 6-8 p.m. The event will feature authors and activists offering readings and reflections on intellectual freedom. Tickets are available now through the ALA Annual Conference website, and we



will be offering many opportunities to support the book and the event. We hope many of you will join us celebrating the foundation, its work, and its future.

FTRF Membership

Membership in the Freedom to Read Foundation supports the important work of defending our First Amendment freedoms and helps to build our organizational capacity so that we can continue to pursue our litigation, education, and public awareness programs. By joining the Freedom to Read Foundation, you amplify your support for intellectual freedom and your advocacy on behalf of free expression and the freedom to read freely. Your organizations can also join the Freedom to Read Foundation as organizational members.

Please send a check (\$50 or more for personal members, \$100 or more for organizations, and \$10 or more for students) to:

Freedom to Read Foundation
50 E. Huron Street
Chicago, IL 60611

Alternatively, you can join or renew your membership by calling 800-545-2433, ext. 4226, or online at <https://www.ftrf.org/>.

INTELLECTUAL FREEDOM COMMITTEE REPORT TO COUNCIL

EDITOR'S NOTE: This report was presented by Julia Warga, chair of the American Library Association's Intellectual Freedom Committee, at the American Library Association's 2019 Midwinter Meeting on January 29 in Seattle, Washington.

The ALA Intellectual Freedom Committee (IFC) is pleased to present this update of its activities.

Information

JOURNAL OF INTELLECTUAL FREEDOM & PRIVACY

The Journal of Intellectual Freedom & Privacy continues to serve as the publication of record for censorship issues, while providing a venue for literature reviews, professional commentary, and peer-reviewed research addressing intellectual freedom and privacy in libraries. Volume 3, Number 2-3, features commentary on neutrality and algorithms in libraries; an intellectual freedom journey; book reviews; and comprehensive news coverage featuring reports on material and resource challenges, and updates on lawsuits.

INTELLECTUAL FREEDOM MANUAL

The 10th edition of the *Intellectual Freedom Manual*, edited by Martin Garnar and Trina Magi, is planned to be published in the spring of 2020 by ALA Editions. In February 2018, an IFC working group began reviewing each intellectual freedom Q&A, guideline, and interpretation to determine whether they needed revisions, to ensure the resources printed in the manual are up to date. The committee continues to revise documents and form working groups that meet frequently to discuss changes to the documents. The committee is proposing three interpretation revisions and one article for Council consideration at this Midwinter Meeting. The committee plans to present nine additional documents to ALA Council for potential adoption at ALA Annual Conference 2019.

IFC SPRING MEETING

Prior to the publication of new editions of the *Intellectual Freedom Manual*, ALA's Office for Intellectual Freedom (OIF) schedules a weekend workshop known as the Intellectual Freedom Committee Spring Meeting. The Spring Meeting brings together

committee members and intellectual freedom advocates who dedicate a weekend at the ALA Chicago headquarters crafting and revising *Library Bill of Rights* interpretations, Q&As, and policies. Many of these document drafts will be presented to ALA Council for consideration and, if adopted, included in the next edition of the *Intellectual Freedom Manual*. With the upcoming publication of the 10th edition of the manual, OIF will host the IFC Spring Meeting on March 22-24, 2019.

RESOLUTIONS

The committee voted to endorse "Resolution Proposing a Task Force on Online Deliberation and Voting for ALA Council" in principle. The committee voted to endorse "A Resolution in Support of Civil Rights Protections for People of Diverse Gender Identities" in principle.

ADDRESSING HATEFUL CONDUCT IN LIBRARIES

"Hateful Conduct in Libraries: Supporting Library Workers and Patrons," a new resource collaboratively created by OIF and ALA's Office for Diversity, Literacy and Outreach Services (ODLOS), was launched at this Midwinter Meeting. The resource provides guidance for librarians struggling with issues of hate and intolerance while striving to preserve equal access. The document offers proactive strategies to respond to and discourage hate speech and to grow a mindful culture that prioritizes inclusiveness and equity, while assuring access to all viewpoints. The guide is available online (ala.org/advocacy/hatefulconduct) and can be used to initiate conversations among staff members and within communities.



MERRITT FUND

The Merritt Humanitarian Fund is celebrating its fiftieth anniversary in 2020.

The LeRoy C. Merritt Humanitarian Fund was established in 1970 as a special trust in memory of Dr. LeRoy C. Merritt. It is devoted to the support, maintenance, medical care, and welfare of librarians who, in the trustees’ opinion, are denied employment rights or discriminated against on the basis of gender, sexual orientation, race, color, creed, religion, age, disability, or place of national origin, or denied employment rights because of defense of intellectual freedom.

During this Midwinter Meeting, the Merritt Fund Board of Trustees met to discuss new outreach strategies that will encourage ALA members to donate to the cause. Those who donate are also considered a member of the fund and may vote in the annual trustee election. ALA members may easily donate what they can when renewing their ALA membership.

PRIVACY AND CONFIDENTIALITY

The Office for Intellectual Freedom continues to work with libraries and member leaders to support and defend patrons’ right to privacy in what they read and access in libraries. These initiatives have taken on greater urgency in the wake of the disclosures about the unauthorized collection and misuse of individuals’ personal information by social media platforms and providers of internet-capable devices.

These privacy challenges, enabled, in part, by the United States’ hands-off approach to regulating the use of individuals’ data, have spurred a popular, non-partisan movement to adopt new federal privacy laws to supplement or replace the myriad of state laws protecting privacy and personal data. State legislatures, following California’s example, are looking at

proposals to adopt laws comparable to the European Union’s General Data Protection Regulation (GDPR). As a professional membership organization whose Code of Ethics calls librarians to protect patron privacy and confidentiality, and as a leading advocate for library users’ rights, ALA needs to be prepared to support initiatives to protect individual privacy and advocate for the right to privacy in library use.

To that end, the Intellectual Freedom Committee is preparing to advance the first major change to the *Library Bill of Rights* since 1980 by recommending the adoption of a seventh article addressing the privacy rights of library users. OIF staff members are working with the ALA Washington Office, discussing possible strategies for addressing proposed federal privacy legislation and identifying several proactive strategies to advocate for library users’ privacy.

PRIVACY SUBCOMMITTEE AND CHOOSE PRIVACY WEEK

Concurrent with the recommendation that ALA Council adopt the proposed Article VII addressing library users’ privacy rights, the IFC Privacy Subcommittee has launched a comprehensive review of all ALA policy documents related to user privacy and library records, including the Privacy Interpretation of the *Library Bill of Rights*. The subcommittee anticipates completing their review and revisions in time for ALA Annual 2019. Working groups within the subcommittee are also drafting new library privacy guidelines addressing vendor relations, data analytics, and assistive technologies.

The IFC Privacy Subcommittee also voted to adopt “Inclusive Privacy: Closing the Gap” as the theme for Choose Privacy Week 2019, in support of ALA’s EDI [Equity, Diversity,

Inclusion, and Social Justice] initiatives. The activities for this year’s observance will encourage libraries to adopt policies and create programs that make privacy equal, open, and inclusive. The focus will be on helping librarians understand the privacy inequities imposed on vulnerable and historically underrepresented populations, and what they can do to address those inequities through programming, instruction, and advocacy.

eLEARNING: LAW FOR LIBRARIANS

This spring, OIF will co-sponsor two multi-week online learning opportunities with ALA’s eLearning unit. The first course, “The First Amendment and Library Services,” will be taught by Freedom to Read Foundation general counsel Theresa Chmara and will introduce students to the legal principles behind the First Amendment, their practical implications in daily life, and how those principles affect library work. The second course, “Privacy, Libraries, Patrons and the Law,” will be taught by Interim OIF Director Deborah Caldwell-Stone and will provide students information about the legal frameworks for upholding patrons’ right to privacy in the library.

NEWS YOU CAN USE

More than 100 people attended OIF’s News You Can Use program “Intellectual Freedom and the Law: Issues and Updates for Meeting Rooms, Drag Queen Storytimes, and Library Lawsuits.” The session—presented by general counsel of the Freedom to Read Foundation Theresa Chmara and moderated by Interim OIF Director Deborah Caldwell-Stone—reviewed legal precedents applicable to libraries’ provision of meeting rooms and drag queen storytimes, and offered guidance on crafting policies. During the Q&A portion, many



attendees discussed their own policies and experiences, and Chmara and Caldwell-Stone made themselves available to answer follow-up questions.

PRIVACY TRAINING CURRICULUM

OIF has reached an agreement in principle to host an online privacy literacy training curriculum for librarians developed by the Digital Privacy Project with the sponsorship of Data & Society. The curriculum consists of four learning modules and online resources that teach about the importance of digital privacy and data literacy; provide an overview of how information travels and is shared online; and instruct librarians about common privacy risks encountered online by users, and how to help users address those risks.

NEW CENSORSHIP PUBLICATION

OIF Assistant Director Kristin Pekoll wrote *Beyond Banned Books: Defending Intellectual Freedom throughout Your Library*. Scheduled to be published by ALA Editions in spring 2019, the book provides specific case studies to offer practical guidance on safeguarding intellectual freedom related to library displays, programming, databases, artwork, and other librarian-created content. It provides questions to consider when strengthening a library's defenses against censorship and includes key intellectual freedom policies as appendices. Pekoll will review its information and guidance during her program "Censorship Beyond Books" at ALA Annual Conference 2019.

Public Challenges and Support

OIF provides confidential support to anyone undergoing a material or service challenge. Challenges are reported via an online form, email,

phone call, or social media. OIF can answer questions and address concerns for libraries undergoing a challenge or implementing vital intellectual freedom best practices. OIF has helped libraries edit policies, navigate social media, and defend materials and services. The office has also worked with many organizations, librarians, and administrators to provide support in the form of letters, public statements, and guidance on next steps.

To increase reporting of intellectual freedom challenges, OIF launched a "Report Censorship" campaign, which coordinated outreach efforts on social media, in ALA publications, and within state intellectual freedom committees. The campaign encouraged library workers and educators to report censorship incidents that occurred in 2018. These numbers not only assist OIF in providing challenge support, but they also help the office identify censorship trends, publish the Top 10 Most Challenged Books, and create resources.

This campaign contributed to an increase in reporting of public challenges. From May 24, 2018 to December 21, 2018, OIF entered 179 public reports. This is nearly three times the amount of public challenges included in the last report. The reports range from materials, programs, and exhibits, to EBSCO databases, meeting rooms, and hate crimes. The full report of public challenges can be viewed on the Intellectual Freedom Blog: <https://bit.ly/2GaHhhM>.

Initiatives

BANNED BOOKS WEEK

With the theme "Banning Books Silences Stories. Speak Out," Banned Books Week 2018 (September 23-29) engaged readers in conversations about advocacy, censorship, and speaking out for banned books.

Students, readers, and library workers participated in the annual Stand for the Banned read-out, including ALA President Loida Garcia-Febo. The activity invites participants to read from banned/challenged books or discuss censorship on camera. OIF partnered with Little Free Library to send packages of challenged books to 80 randomly selected Little Free Library stewards across the country. The Dear Banned Author letter-writing initiative invited readers to write to (or tweet with the hashtag #DearBannedAuthor) banned/challenged authors, sharing how their stories made a difference. OIF partnered with the American Writers Museum to host a dedicated letter-writing station, as well as coordinated with ALA division leaders and ALA publications to publicize and participate in the event. Teachers, students, organizations, and readers tweeted messages to writers with the hashtag #DearBannedAuthor, which some authors replied to. Below are a few letters:

- "The Perks of Being a Wallflower gave me the bravery to face trauma and the power to reclaim my identity. This book helped me to heal and redefined what I now know to be love."—Grace, to Stephen Chbosky
- "It really helped me to understand that we don't always know what people are going through. Also that we shouldn't be afraid and we should speak up and tell someone about our situation. It teaches us that we shouldn't stay around people who are going to hurt us."—Breanna, to Jay Asher
- "I read it shortly after it was published at 14, and it shook me. You probably saved me more than once. I am forever grateful for your work and your courage."—to Laurie Halse Anderson
- "As a young kid, reading wasn't my



favorite, but your books changed everything.”—aron, to Dav Pilkey

The 2019 Banned Books Week campaign (September 22–28) is planning to explore the benefits of unrestricted reading. The committee was presented initial concepts of Banned Books Week themes and gave feedback on designs and taglines. The office plans to host the Dear Banned Author letter-writing campaign again, strengthening outreach with authors, publishers, and readers. The Top 10 Most Challenged Books and the Banned Books Week theme will be revealed during National Library Week (April 7–13, 2019).

IFC Projects and Working Groups

IFC CONFERENCE PROGRAMMING WORKING GROUP

At ALA Annual Conference 2018, the IFC Programming Working Group was formed to submit proposals for consideration for ALA Annual Conference 2019. The committee is pleased to report that three proposals were accepted:

- “Controversial Speaker Planned for your Library Event? Things to Consider”
- “When You Can’t Go Home Again: Refugee and Exile Authors in the US”
- “Are You Going to Tell My Parents?: The Minor’s Right to Privacy in the Library”

LIBRARY BILL OF RIGHTS, ARTICLE VII

The IFC voted at ALA Annual Conference 2018 to establish a working group to propose a *Library Bill of Rights* amendment that focused on the concept of ensuring privacy and confidentiality for library users. The working group was composed of three IFC members and three Privacy

Subcommittee members. After being reviewed by the committee, the draft was sent to the library community on December 7, 2018. The working group reviewed all comments and made changes, including adding the word “safeguarding” and extending “personal information” to “personally identifiable information.” In response to many comments asking for more detailed guidance, the working group issued a responsive statement. It read:

The *Library Bill of Rights* is a short visionary statement; therefore, we do not want to overload the text in the article with details traditionally addressed in Interpretations and other policy documents. The valuable ideas we received during the input process will be considered for incorporation into the upcoming revision of ‘Privacy: An Interpretation of the *Library Bill of Rights*’ and other ALA privacy-related statements.

Library Bill of Rights, Article VII, is included in this report as an action item (*see page 46*).

“MEETING ROOMS: AN INTERPRETATION OF THE LIBRARY BILL OF RIGHTS”

In July 2018, the IFC formed a working group that brought multiple voices and a broad range of perspectives to the table from throughout the association to revise “Meeting Rooms: An Interpretation of the *Library Bill of Rights*,” adopted by ALA Council at the 1991 ALA Annual Conference in New Orleans. The working group was united in providing a document that will uphold core values, is responsive to the concerns raised by library workers, and supports the communities of America’s libraries. ODLOS Director Jody Gray and OIF Director James LaRue served as staff liaisons to the committee. In

August, Council voted to rescind the June 2018 interpretation, restoring the 1991 version; however, work on a more up-to-date revision continued. The working group distributed a Google Form to the library community requesting suggestions for language and resources to include in the revised draft. A draft revision was sent to the public for feedback in September. Each comment was taken into consideration. In October, the committee requested an extension of time to complete work on the draft, so that all comments could be considered. The committee voted to bring the interpretation to Council for feedback, and it was sent to Council on October 15.

The revised interpretation is included in this report as an action item (*see page 46*).

“MEETING ROOMS Q&A”

An IFC working group is compiling a Q&A on questions that have been brought up during the revision of the meeting rooms interpretation. Headed by IFC Chair Julia Warga, the working group began its work by compiling a spreadsheet of questions about meeting rooms from social media, blog posts, and surveys. Questions range from policy and public forum to commercial sales and fees. The committee plans to have a draft ready by the IFC Spring Meeting in March.

“PRISONERS’ RIGHT TO READ: AN INTERPRETATION OF THE LIBRARY BILL OF RIGHTS”

An IFC working group was formed to revise the “Prisoners’ Right to Read” interpretation, adopted in 2010 by the ALA Council, and amended in 2014. A revision draft was sent to the library community for feedback on December 10, and the working group discussed each comment. After much discussion, the working group decided



to retain the word “prisoners” in the title because it’s concise, but other references were changed to “people who are incarcerated,” “people who are incarcerated or detained” and “incarcerated people.” The revisions also include an expanded citation section and a statement on services provided to people who are incarcerated or detained, regardless of citizenship status or conviction status.

The interpretation revision is included in this report as an action item (*see page 47*).

“DIVERSITY IN COLLECTION DEVELOPMENT: AN INTERPRETATION OF THE LIBRARY BILL OF RIGHTS”

A revision of the Diversity in Collection Development interpretation—adopted by ALA Council in 1982, and amended in 1990, 2008, and 2014—was distributed to the library community for feedback on December 10. During the IFC meetings at Midwinter, the committee decided that the difference between a diversity of viewpoints and a diverse collection should be clarified. The committee also discussed creating a Q&A to elaborate on these ideas. The working group will continue revising the document.

“RELIGION IN AMERICAN LIBRARIES: QUESTIONS AND ANSWERS”

An IFC working group was formed to revise “Religion in American Libraries: Questions and Answers,” approved by the IFC in 2010. During its first four meetings, the working group made a number of changes, including omitting a list of considerations for exhibit space policies and adding a section on religious programming. The working group will continue revising the document.

“EDUCATION AND INFORMATION LITERACY: AN INTERPRETATION OF THE LIBRARY BILL OF RIGHTS”

A working group was formed to revise “Advocating for Intellectual Freedom: An Interpretation of the *Library Bill of Rights*,” adopted by ALA Council in 2009 and amended in 2014. The working group began the revision process by comparing the 2009 version (titled “The Importance of Education to Intellectual Freedom”) to the 2014 version (titled “Advocating for Intellectual Freedom”) The original version was about how libraries provide education, and in doing so, facilitate intellectual freedom. The most recent version focused on how libraries educate people about intellectual freedom. After extensive conversations, the group came to a consensus about returning to the 2009 intent, especially since it has a direct connection to the *Library Bill of Rights*. The document’s revisions also include updated language addressing inclusivity and the definition of “access.” Because of its alignment with the ALA *Code of Ethics*, the Committee on Professional Ethics and the Intellectual Freedom Committee are discussing the possibility of creating a joint policy statement or interpretation of ALA’s *Code of Ethics* that focuses on the 2014 version’s goal of promoting intellectual freedom education in libraries.

The working group plans to send a draft of “Education and Information Literacy” to the library community for feedback after Midwinter.

“CHALLENGED RESOURCES: AN INTERPRETATION OF THE LIBRARY BILL OF RIGHTS”

This interpretation was adopted by ALA Council in 1971 and amended in 1981, 1990, 2009, and 2014. A working group was formed to revise the interpretation, which started with the

reorganization of the paragraphs. A draft was sent to the library community for feedback, and each comment was reviewed. The changes made to the draft include adding a quote from “Diversity in Collection Development: An Interpretation of the *Library Bill of Rights*,” and *Library Bill of Rights* articles, incorporating the footnote on the distinction between legal and extralegal actions within the text, and including a statement on library services for students and minors.

The interpretation draft is included in this report as an action item (*see page 48*).

In closing, the Intellectual Freedom Committee thanks the division and chapter intellectual freedom committees, the Intellectual Freedom Round Table, the unit liaisons, and the OIF staff for their commitment, assistance, and hard work.

Respectfully Submitted,
 ALA Intellectual Freedom Committee
 Julia Warga, IFC chair
 Helen Adams
 Emily Clasper
 Peter Coyl
 Eldon Ray James
 Shenise McGhee
 Johana Orellana-Cabrera
 Cecelia Parks
 Kimberly Patton
 John Spears
 Sarah Thornbery
 Paul Flagg, Committee Associate
 Audrey Robinson-Nkongola, Committee Associate

Action Items

ALA Council adopted the following Intellectual Freedom Committee action items:



**LIBRARY BILL OF RIGHTS,
ARTICLE VII, ADOPTED WITHOUT
AMENDMENT BY THE ALA COUNCIL
AT ITS 2019 MIDWINTER MEETING**

All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people’s privacy, safeguarding all library use data, including personally identifiable information.

Endorsed by the Committee on Professional Ethics and the Intellectual Freedom Round Table.

**MEETING ROOMS: AN
INTERPRETATION OF THE LIBRARY
BILL OF RIGHTS, AS AMENDED AND
ADOPTED BY THE ALA COUNCIL AT
ITS 2019 MIDWINTER MEETING**

Many libraries provide meeting rooms and other spaces designated for use by the public for meetings and other events as a service to their communities. Article VI of the *Library Bill of Rights* states, “Libraries which make ... meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.” Libraries do not advocate for or endorse the viewpoints expressed in meetings by meeting room users, just as they do not endorse the viewpoints of works in their collections. The presence and activities of some groups in public spaces, while constitutionally protected, can cause fear and discomfort in some library users and staff. Libraries should adopt and enforce user behavior policies that protect library users and staff from harassment while maintaining their historic support for the freedom of speech.¹ This interpretation provides general guidelines regarding meeting rooms and other spaces for public

gatherings, and it does not constitute legal advice.

Publicly funded libraries are not obligated to provide meeting room space to the public. If libraries choose to do so, such spaces are considered designated public forums,² and legal precedent holds that libraries may not exclude any group based on the subject matter to be discussed or the ideas for which the group advocates.^{3,4} However, if a group’s actions during a meeting disrupt or harass others in the library, library policies regarding acceptable behavior may apply. If libraries adopt policies that are perceived to restrict potentially controversial groups’ access to meeting rooms, they may face legal and financial consequences. Allowing religious groups to use library meeting rooms and spaces does not constitute a breach of the First Amendment’s Establishment Clause.⁵

Libraries offering meeting rooms and spaces should develop and publish policies governing use after consultation with legal counsel. These policies should properly define time, place, or manner of use; such restrictions should not pertain to the content of a meeting or to the beliefs or affiliations of the sponsors. Policies should be regularly reviewed with staff and made available to the public in all of the commonly used languages within the community served.

Libraries should write policies in inclusive rather than exclusive terms. A policy that the library’s facilities are open “to organizations engaged in educational, cultural, intellectual, charitable, advocacy, civic, religious, or political activities” is an inclusive statement of the limited uses of the facilities. For example, if a library allows charities and sports clubs to discuss their activities in library meeting rooms, then the library should not exclude partisan political or religious

groups from discussing their activities in the same facilities. If a library opens its meeting rooms to a wide variety of civic organizations, then the library may not deny access to a religious organization.

Written policies may also include limitations on frequency of use and require adherence to the library’s behavior policy.⁶ The meeting room policy should also state whether meetings held in library spaces must be open to the public or if the library allows private events. Libraries may choose to offer space for public or private events unless restricted by state or local laws. The same standards and policies should apply to all meeting room uses. Library users should have a process through which they may appeal the denial of meeting room use.

If meeting rooms and spaces are open to the public, libraries should include a section in their policy that addresses fees. Charging fees does not change the status of meeting rooms and spaces as designated public forums. Library governing bodies that decide to charge fees for use of library spaces should consider local and state laws, the ALA’s Code of Ethics, and the *Library Bill of Rights*. Charging fees for the use of library meeting rooms or facilities may abridge or deny access for some community members.⁷

Article V of the *Library Bill of Rights* states, “A person’s right to use a library should not be denied or abridged because of origin, age, background, or views.” This applies with equal force to the library’s meeting rooms and spaces designated for public use as it does to the library’s collections and services.

1. “Resolution on Libraries as Responsible Spaces,” Committee on Diversity, adopted June 26, 2017 by the ALA Council.



2. *Concerned Women for America v. Lafayette County*, 883 F.2d 32 (5th Cir. 1989).
3. *Hale v. Schaumburg Township District Library, et al.*, 01-cv-2220 (N.D. Ill. 2001); *Hale, et al., v. Schell and the Martin Library Board of Directors*, 1:02-cv-1156 (M.D. Pa. 2002).
4. “White Supremacist Wins Library Venue in Schaumburg,” *American Libraries Magazine*, August 20, 2001; “White Supremacists to Meet after Library Changes Policy,” Library Journal staff, *Library Journal*, November 25, 2002.
5. *Concerned Women for America v. Lafayette County*, 883 F.2d 32 (5th Cir. 1989).
6. “Guidelines for the Development of Policies and Procedures Regarding User Behavior and Library Usage,” adopted January 24, 1993 by the Intellectual Freedom Committee; revised November 17, 2000; January 19, 2005; and March 29, 2014.
7. “Economic Barriers to Information Access: An Interpretation of the *Library Bill of Rights*,” adopted June 30, 1993, by the ALA Council.

Adopted July 2, 1991, by the ALA Council; amended June 26, 2018; amended version rescinded August 16, 2018; amended January 29, 2019.

PRISONERS’ RIGHT TO READ: AN INTERPRETATION OF THE *LIBRARY BILL OF RIGHTS*, AS AMENDED AND ADOPTED BY THE ALA COUNCIL AT ITS 2019 MIDWINTER MEETING

The American Library Association asserts a compelling public interest in the preservation of intellectual freedom for individuals of any age held in jails, prisons, detention facilities, juvenile facilities, immigration facilities,

prison work camps, and segregated units within any facility, whether public or private. As Supreme Court Justice Thurgood Marshall wrote:

When the prison gates slam behind an inmate, he does not lose his human quality; his mind does not become closed to ideas; his intellect does not cease to feed on a free and open interchange of opinions; his yearning for self-respect does not end; nor is his quest for self-realization concluded. If anything, the needs for identity and self-respect are more compelling in the dehumanizing prison environment.¹

Participation in a democratic society requires unfettered access to current social, political, legal, economic, cultural, scientific, and religious information. Information and ideas available outside the prison are essential to people who are incarcerated for a successful transition to freedom. Learning to thrive in a free society requires access to a wide range of knowledge. Suppression of ideas does not prepare people of any age who are incarcerated for life in a free society. Even those individuals who are incarcerated for life require access to information, to literature, and to a window on the world.

That material contains unpopular views or even what may be considered repugnant content does not justify its censorship.² Censorship is a process of exclusion by which authority rejects specific viewpoints. Unlike censorship, selection is a process of inclusion that involves the search for materials, regardless of format, that represent diversity and a broad spectrum of ideas. The correctional library collection should reflect the needs of its community.

Correctional libraries, librarians, or library managers may be required

by federal, state, or local laws; administrative rules; or court decisions to prohibit material that instructs, incites, or advocates criminal action or bodily harm or is a violation of the law. Only those items that present an actual compelling and imminent risk to safety and security should be restricted. Although these limits restrict the range of material available, the extent of limitation should be minimized by adherence to the *Library Bill of Rights* and its interpretations.

These principles should guide all library services provided to people who are incarcerated or detained, regardless of citizenship status or conviction status:

- Collection management should be governed by written policy, mutually agreed upon by librarians and correctional agency administrators, in accordance with the *Library Bill of Rights* and its interpretations.
- Correctional libraries should have written procedures for addressing challenges to library materials, including a policy-based description of the disqualifying features.³
- Correctional librarians and managers should select materials that reflect the demographic composition, information needs, interests, and diverse cultural values of the confined communities they serve.
- Correctional librarians should be allowed to acquire materials that meet written selection criteria and provide for the multi-faceted needs of their populations without prior correctional agency review. They should be allowed to select from a wide range of sources in order to ensure a broad and diverse collection. Correctional librarians should not be limited to acquiring or purchasing from a list of approved materials or vendors.
- Correctional librarians should make



all reasonable efforts to provide sufficient materials to meet the information and recreational needs of incarcerated people who speak languages other than English.

- Correctional librarians should be given adequate support for making library resources discoverable.
- Age is not a sufficient reason for censorship. Incarcerated children and youth should have access to a wide range of fiction and nonfiction.⁴
- Equitable access to information should be provided for people with disabilities.⁵
- Media or materials with non-traditional bindings should not be prohibited unless they present an actual compelling and imminent risk to safety and security.
- Material with sexual content should not be banned unless it violates state and federal law.
- Correctional libraries should provide access to computers and internet content, permitted by the correctional facility's library policies.
- People who are incarcerated or detained should have the ability to obtain books and materials from outside the prison for their personal use.

When free people, through judicial procedure, segregate some of their own, they incur the responsibility to provide humane treatment and essential rights. Among these is the right to read and to access information. The right to choose what to read is deeply important, and the suppression of ideas is fatal to a democratic society. The denial of intellectual freedom—the right to read, to write, and to think—diminishes the human spirit of those segregated from society.

1. *Procunier v. Martinez*, 416 U.S. 428 (1974).

2. 28 CFR 540.71(b): “The Warden may not reject a publication solely because its content is religious, philosophical, political, social or sexual, or because its content is unpopular or repugnant.”
3. “Challenged Resources: An Interpretation of the *Library Bill of Rights*,” adopted June 25, 1971 by the ALA Council; amended July 1, 1981; January 10, 1990; January 28, 2009, and July 1, 2014.
4. “Access to Library Resources and Services for Minors: An Interpretation of the *Library Bill of Rights*,” adopted June 30, 1972, by the ALA Council; amended July 1, 1981; July 3, 1991; June 30, 2004; July 2, 2008 under previous name “Free Access to Libraries for Minors”; and July 1, 2014.
5. “Services to People with Disabilities: An Interpretation of the *Library Bill of Rights*,” adopted January 28, 2009, by the ALA Council under the title “Services to Persons with Disabilities”; amended June 26, 2018.

Adopted June 29, 2010, by the ALA Council; amended July 1, 2014; January 29, 2019.

CHALLENGED RESOURCES: AN INTERPRETATION OF THE LIBRARY BILL OF RIGHTS, AS AMENDED AND ADOPTED BY THE ALA COUNCIL AT ITS 2019 MIDWINTER MEETING

“Libraries: An American Value” states, “We protect the rights of individuals to express their opinions about library resources and services.”¹ The American Library Association declares as a matter of firm principle that it is the responsibility of every library to have a clearly defined written policy for collection development that includes a procedure for review of challenged resources. Collection development applies to library

materials and resources in all formats, programs, and services.

Article I of the American Library Association’s *Library Bill of Rights* states, “Materials should not be excluded because of the origin, background, or views of those contributing to their creation.” Article II further declares, “Materials should not be proscribed or removed because of partisan or doctrinal disapproval.”

Freedom of expression, although it can be offensive to some, is protected by the Constitution of the United States. The “Diversity in Collection Development: An Interpretation of the *Library Bill of Rights*” states:

Librarians have a professional responsibility to be fair, just, and equitable and to give all library users equal protection in guarding against violation of the library patron’s right to read, view, or listen to content protected by the First Amendment, no matter what the viewpoint of the author, creator, or selector. Librarians have an obligation to protect library collections from removal of content based on personal bias or prejudice.²

This applies with equal force to library resources and services provided to students and minors.³

The Supreme Court has held that the Constitution requires a procedure designed to critically examine all challenged expression before it can be suppressed.⁴ Therefore, libraries should develop a procedure by which the governing body examines concerns and challenges about library resources. This procedure should be open, transparent, and conform to all applicable open meeting and public records laws. Challenged resources should remain in the collection, and access to the resources remain unrestricted during the review process. Resources that meet the criteria for



selection and inclusion within the collection as outlined in the institution's collections policy should not be removed. Procedures to review challenges to library resources should not be used to suppress constitutionally protected expression.

Any attempt, be it legal or extralegal, to regulate or suppress resources in libraries must be closely scrutinized to the end that protected expression is not abridged. Attempts to remove or suppress materials by library staff or members of the library's governing body that are not regulated or sanctioned by law are considered "extralegal." Examples include actions that circumvent library policy, or actions taken by elected officials or governing board members outside the established legal process for making legislative or board decisions. Actions taken by library governing bodies during official sessions or meetings pursuant to the library's collection development

policy, or litigation undertaken in courts of law with jurisdiction over the library and the library's governing body, and actions taken by legislative bodies are considered a "legal process."

Content filtering is not equivalent to collection development. Content filtering is exclusive, not inclusive, and cannot effectively curate content or mediate access to resources available on the internet. Filtering should be addressed in an institution's policy on acceptable use of the internet. Acceptable use policies should reflect the *Library Bill of Rights* and "Internet Filtering: An Interpretation of the *Library Bill of Rights*," and be approved by the appropriate governing authority.

1. "Libraries: An American Value," adopted February 3, 1999, by the ALA Council.

2. "Diversity in Collection Development: An Interpretation of the *Library Bill of Rights*," adopted July 14, 1982, by the ALA Council; amended January 10, 1990; July 2, 2008; and July 1, 2014. Revisions proposed January 2019.
3. "Access to Library Resources and Services for Minors: An Interpretation of the *Library Bill of Rights*," adopted June 30, 1972, by the ALA Council; amended July 1, 1981; July 3, 1991; June 30, 2004; July 2, 2008 under previous name "Free Access to Libraries for Minors"; and July 1, 2014.
4. *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58 (1963).

Adopted June 25, 1971, by the ALA Council; amended July 1, 1981; January 10, 1990; January 28, 2009; July 1, 2014; January 29, 2019.