

newsletter on intellectual freedom



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lawmakers yield in PATRIOT Act debate

Powerful Senate leaders on October 1 bowed to FBI concerns that adding privacy protections to an expiring provision of the Patriot Act could jeopardize “ongoing” terror investigations.

The PATRIOT Act was adopted six weeks after the 2001 terror attacks and greatly expanded the government’s power to intrude into the private lives of Americans in the course of anti-terror and criminal investigations. Three provisions are expiring at year’s end.

During a Senate Judiciary Committee hearing, Sen. Patrick Leahy (D-VT), the committee chair, and Sen. Dianne Feinstein (D-CA) introduced last-minute changes that would strip away some of the privacy protections Leahy had espoused just the week before. The Vermont Democrat said his own, original proposal could jeopardize ongoing terror investigations.

“All of us are mindful that threats against American safety are real and continuing,” Leahy said at the hearing. “I’m trying to introduce balances on both sides.”

He was discussing one of the most controversial provisions of the Patriot Act—Section 215. That allows a secret court—known as the Foreign Intelligence Surveillance Act Court or FISA court—to authorize broad warrants for most any type of records, including those held by banks, libraries and doctors.

The Leahy-Feinstein amendment, which was likely to be adopted by the committee and sent to the full Senate, does not require the government to show a connection between the items sought under a Section 215 warrant and a suspected terrorist or spy.

Just the previous week, however, Leahy touted an amendment that required a connection to terrorism. Under the Leahy-Feinstein amendment, the standard would allow secret-court warrants to be issued if the information sought pertains to an “authorized investigation.” That’s roughly the same language already in the Act.

Feinstein, also chair of the Senate Select Committee on Intelligence which often is briefed on key classified activities, said the last-minute change was needed to keep America safe.

“The biggest investigation since 9/11 is ongoing,” Feinstein said. “My concern was that nothing we do here interfere with an investigation that is going on.”

Two weeks earlier, authorities said they cracked an al-Qaida cell that was planning a terror attack in the United States. At least three were arrested, including an airport shuttle

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Vermont Library Association Resolution on 2009 Reauthorization of the USA PATRIOT Act

The following resolution was adopted by the Vermont Library Association Executive Board and read into the record the following week at the first hearing of the Senate Judiciary Committee on reauthorization of the PATRIOT Act by Committee Chair Sen. Patrick Leahy (D-VT).

Whereas, the Vermont Library Association is committed to encouraging free and open inquiry by preserving the privacy rights of library users, library employees, and persons living in the United States; and

Whereas, the Vermont Library Association opposes governmental actions that suppress or chill free and open inquiry and has called for the USA PATRIOT Act to be amended to restore fundamental constitutional rights and safeguards that protect the civil liberties of library users, library employees, and U.S. persons; and

Whereas, Section 215 of the USA PATRIOT Act allows the FBI to secretly request and obtain library records for large numbers of individuals without reason to believe they are involved in illegal activity; and

Whereas, Section 505 of the USA PATRIOT Act permits the FBI to obtain records from libraries by using National Security Letters (NSL) without prior judicial oversight; and

Whereas, Section 215 automatically requires and Section 505 permits the FBI to impose a nondisclosure or “gag” order on the recipients, thereby prohibiting the reporting of abuse of government authority and abrogating the recipients’ First Amendment rights; and

Whereas, FBI Director Robert S. Mueller III testified before the Senate Judiciary Committee on March 25, 2009, that the FBI had used Section 215 of the USA PATRIOT Act 223 times between 2004 and 2007, and the Office of the Inspector General (OIG) of the Department of Justice reported in March 2008 that the FBI had made 192,499 National Security Letter requests from 2003 through 2006; and

Whereas, the OIG reported in March 2008 that “the FISA Court twice refused to authorize Section 215 orders based on concerns that the investigation was premised on protected First Amendment activity, and the FBI subsequently issued NSLs to obtain information” without reviewing the underlying investigation to be sure it did not violate the statute’s First Amendment caveat; and

Whereas, members of Congress have introduced legislation to restore privacy rights and address the concerns of the Vermont Library Association such as: The Freedom to Read Protection Act (H.R. 1157 in the 108th Congress) and the

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“librarians shushed no more:” the USA PATRIOT Act, the “Connecticut Four,” and professional ethics

by Barbara M. Jones, Ph.D, International Library Consultant and former University Librarian, Wesleyan University.

The following is the text of a talk presented at the World Library and Information Congress: 75th IFLA General Conference and Council held 23–27 August 2009, in Milan, Italy.

Librarian George Christian is the Executive Director of the Library Connection, Inc., in Windsor, Connecticut. The Library Connection is a 27-member library consortium in the Hartford, Connecticut area. Their mission is to provide a shared OPAC (online public access catalog) for its members, with searching, circulation, and patron records online.

On July 8, 2005, an agent from the FBI (Federal Bureau of Investigation), a US federal agency, contacted Ken Sutton, the IT manager for the Library Connection and told him that the Executive Director of the Library Connection consortium was about to be served with a National Security Letter (NSL). The agent did not reveal what the letter would say, but of course this message sent a chill through George Christian as the Executive Director. US librarians had been alerted by their state and national library organizations that they might receive such letters.

USA PATRIOT Act

The USA PATRIOT Act (Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism) was signed into law on October 26, 2001, shortly after the attack on the United States on September 11, 2001. Most of Congress would later admit that they had not read the entire act to understand its long-term ramifications. The law was passed during a highly emotional time for Congress and the rest of the US, when citizens were understandably concerned that the events of September 11 not be repeated. And so the USA PATRIOT Act made it easier for national security interests of the USA to be enforced. There is of course still a significant public debate about whether the act does strengthen national security, but that is its intention. For libraries, here are the important issues:

- The legal standard for obtaining a search warrant with “probable cause” is significantly lowered. For example, before the PATRIOT Act, the warrant was required to show “probable cause” that library infor-

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banned authors speak out

Sarah Brannan

The following remarks were delivered by Sarah Brannan, author of Uncle Bobby's Wedding, one of ALA's ten most frequently challenged books of 2008, at the Chicago Banned Books Week Read-Out on September 26, cosponsored by the ALA Office for Intellectual Freedom, the McCormick Freedom Museum, and the Newberry Library. Author Chris Crutcher hosted authors of six of the ten most challenged books of 2008, who read from their work and shared their experiences as targets of censors. City Lit Theatre Company and Chicago Public Library Readers' Theatre also performed work from frequently challenged authors who couldn't be present in Chicago.

It's an honor to be included in this event and to be on the Top Ten list with nine other great books.

Some of the juxtapositions on the list are interesting; it would be hard to find two more different books than *The Kite Runner*, which we just heard, and *Uncle Bobby's Wedding*.

In fact, the only thing the books have in common is that they both have homosexual characters. But while the gay villain of *The Kite Runner* is an evil, sadistic pedophile rapist, the two gay characters in *Uncle Bobby's Wedding* are a couple of sweet middle-aged guys who love each other deeply and want to get married and raise a family together. They don't even kiss each other. They just get married.

The reason that *Uncle Bobby's Wedding* ended up on the most-challenged list is that it is intended for very young children. Apparently there are people in this country who don't think children should even be aware of the existence of gay people.

When I started working on the book, four years ago, same-sex marriage had been legal in Massachusetts, where I live, for about a year. I wanted to write a picture book about a little girl who got to be the flower girl in a wedding. I decided that her beloved uncle would marry his boyfriend, rather than his girlfriend, when I heard that there are over a million children in this country being raised by same-sex parents. I knew there were very few, almost no books out there that depicted families like theirs, and I knew children like to read about families similar to their own.

I realized that before long there would be a lot of kids in school with children with two mommies or two daddies. I wanted them to see that those families are just like theirs.

I wrote the story about people: a little girl, her mother, her uncle, and his boyfriend. When it was time to think about the illustrations—I'm primarily an illustrator—I realized that I didn't want to limit the story by depicting the family as any particular race. I had guinea pigs as a child and I knew they came in lots of different colors. I decided

that the boys would be black and white guinea pigs and the girls would be brown. I also put all the male characters in jackets or vests and the girls in dresses, although no one has ever noticed this!

The only other concession to their guinea pig-hood is that they're vegetarians and they love carrot cake.

The book was published in March last year, and the first challenge I know about came in June, at a library in Parker, Colorado. The head librarian there, Jamie LaRue, wrote a detailed, thorough response explaining why the library wouldn't take the book off their shelves, and if you're interested in this issue I really suggest you read it; there's a link on my web site and if you search for *Uncle Bobby's Wedding* it will come up on the first page.

There were more challenges in Colorado, and in Florida, Pennsylvania, and at a school in Washington DC. I don't know as much about these as I'd like to so I think at this point I'll just read the book to you, and I hope you can see the illustrations.

Stephen Chbosky

Stephen Chbosky is the author of The Perks of Being a Wallflower, which was number 10 on the Top Ten Challenged Books of 2007-2008 and moved up to number 6 on last year's list. The book celebrates his tenth year of publication and had sold over 700,000 copies.

Thank you. For those who just listened to the last two authors, get ready to get very depressed. So, when I flew in—I was here last year, which was a really great honor, and now I'm back, and it's getting a little boring. No, it's not. But when I flew here yesterday, I had a very different idea of what I was going to say. I was going to talk about how *The Perks of Being a Wallflower*, for me, I wrote it to end a silence in me and I thought the great folks at the ALA and FM were working to end silences. It was very poetic and I was very proud of it. But last night, I decided to scrap it because there was a dinner between the authors, some librarians, and some teachers—this mixer—and basically, just sitting down with all these teachers and librarians, I just saw that they were incredibly dedicated to drinking. I'm kidding—a little bit. What struck me was that they talked all the time about the late head of the Office for Intellectual Freedom: her name was Judith Krug. And, you should have seen these ladies talk about her and start to cry about how much she meant to them as a mentor and as a leader and as a head of this incredible division and the work she did. And I had met her last year, so I had to look her up, because they were so moved by her. And I realized that she started this division in 1967 and she worked 42 years to preserve freedom of speech. That's longer than I've been alive, and I hardly knew her.

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new book censorship map reveals national problem

Have you ever wondered where challenges to books in the United States actually occur? A new book censorship map featured on the BannedBooksWeek.org site illustrates that censorship efforts take place all across the country. The Google map displays more than 120 book challenges—from Maine to Florida and from Long Island, New York, to San Francisco, California—that have occurred since the beginning of 2007. These challenges represent a small portion of those recorded, and have been culled from cases documented by the Kids' Right to Read Project, which is sponsored by the American Booksellers Foundation for Free Expression and the National Coalition Against Censorship, and the American Library Association's "Books Challenged or Banned in 2007-2008 list, by Robert P. Doyle. □

free people read freely

The following is the text of the introduction and summary to "Free People Read Freely," the thirteenth annual report on challenged and banned books in Texas public schools produced by the American Civil Liberties Union and released in conjunction with the 2009 celebration of Banned Books Week.

Beginning in 1996, the ACLU of Texas has celebrated Banned Books Week by releasing an annual report, cataloging the occurrence of censorship in Texas public schools. This is the 13th of these reports.

In order to compile the information necessary to present this report, more than 1,200 open records requests were sent to every school district and charter school in the state. Each school district received a request asking specific questions about challenges to remove or restrict library books or curriculum based reading materials during the 2008–2009 academic year.

This year's report is based on the information contained in the 889 responses to these open records requests. Once received, the data was organized in the following fields: challenging district, book challenged, author of challenged book, campus receiving the challenge, reason for challenge, result of challenge, and whether the challenge was to a curricular usage or library usage. This year we also added questions for each district about their policies governing challenges to literature. In particular, we asked each district to name the individual(s) responsible for reviewing and deciding challenges and whether the decision of the reviewer(s) is final or can be appealed.

School library censors were just as active in the 2008–2009 academic year as they were in the previous year.

Ninety-eight challenges were reported this year, while 102 were reported last year. Similarly, 26 books were banned this year while 27 were banned last year. What is more promising, however, are our findings related to restrictions. Here, we noticed a 25% decrease in the rate of challenges resulting in restrictions. There is bad news also; we noticed a 17% decrease in the rate of challenges resulting in retention. Stephenville ISD reported the most challenges this year with 11. All of these challenges addressed books housed in the Henderson Junior High School library and, unfortunately, every one of them was eventually banned. It is surprising that so many bans—and, therefore, challenges—would come out of district with an enrollment of only 3,500 students. Texas' largest district, Houston ISD, reported only six challenges this year, down from last year's 20 challenges.

The most challenged and banned authors of the year were both writers of series about teen vampires. Every installment in P.C. Cast's *House of Night* series (six books) and Richelle Mead's *Vampire Academy* series (five books) was banned in Stephenville ISD.

When a controversial feature film, adapted from a book for children or adolescents, is released we often see a spike in the number of challenges of that book. This was the case for the J.K. Rowling's *Harry Potter* series, H.G. Bissinger's *Friday Night Lights*, and Phillip Pullman's *His Dark Materials* series, which features *The Golden Compass*. Surprisingly, none of these books was widely challenged this year. Especially conspicuous is the absence of any pieces from Stephanie Meyer's popular *Twilight* series, which is also about teenage vampires and has been adapted for the silver screen.

Statistical Summary and Breakdown

Fifty-five school districts reported 98 challenges in the 2008–2009 academic year, while 43 school districts reported a sum of 102 challenges in the previous year. That is a 28% increase in the number of school districts reporting challenges, but a 4% decrease in the number of total challenges. Put otherwise, 5.33% of the school districts in the state reported challenges this most recent school year, whereas 4.17% of all districts reported challenges last year. Accounting for only responding districts, rather than all districts, the figures become 6.2% (55 out of 889 responding districts) and 5.4% (43 out of 786 responding districts), respectively.

The figures above illustrate an overall rise in the concentration of challenges. That is, the average number of titles challenged by a district reporting at least one challenge has decreased from 2.4 (102 challenges reported by 43 school districts) to 1.8 (98 challenges reported by 55 school districts). This decrease is likely due to the inordinate number of challenges reported last year in Houston ISD (20) and Round Rock ISD (9). All the while, Stephenville ISD

revealed the most challenges this year with 11.

In terms of challenges resulting in an outright ban on a library or curricular book, this school year's results are nearly identical to those of last year. Only 26 of the 98 (27%) challenges resulted in a banning during the most recent school year, whereas 27 of the 102 reported challenges (26%) resulted in the challenged title being banned during the 2007–2008 academic year. While last year we reported a 42% decrease in the overall number of banned books and a 35% decrease in the “success” rate of challenges from the preceding year (2006–2007), the change in both figures was negligible this year. We regard this as something of a success, considering last year saw such a decline in bans and little has changed this year.

Oftentimes, school boards react to a book challenge with actions that stop short of removing books from a school's library. These actions are known as restrictions, and they fall into two categories: restriction to access/special permission required, and allowance of an alternate book (the latter refers only to curricular books). Access to a library book may be restricted in a number of ways, but most commonly an access-restricted book may only be borrowed (1) by students of a certain age/grade level or (2) by students with parental permission.

When a challenge is made to a curricular book, a school district may respond by assigning alternative readers to complaining students or, perhaps, to those students with parents who object to the content of the challenged text. That said, 22% (22 titles) of this year's challenges resulted in restrictions, while 32% (34 titles) of last year's challenged books were ultimately restricted. This represents a promising decrease of 31% in the restriction rate and 29% decrease in the number of restricted books.

Not all book challenges result in restrictive action by school districts. In fact, it is not rare for a school board to take matters of intellectual freedom seriously and elect to reshelve a challenged book, allowing free and unrestricted access. This year 27 challenges (28%) resulted in retention, while last year 36 challenged books (35%) were retained. This reflects a slight but unfortunate move away from retention and toward restricting.

It is important to note that 70.2% (889/1266) of districts responded to the ACLU of Texas' information requests this year, as opposed to last year's rate of 62.57%. Due to the larger sample size, this leads us to believe this year's results paint a more accurate portrait of censorship in public school libraries. It should also be noted that the result of 11 of the 98 challenges are still pending. These books could eventually be banned, restricted, or retained; it is simply too early to tell.

Where were the Most Challenges?

Stephenville, Houston, and Irving school districts reported the most challenges for the 2008–2009 school year.

Stephenville ISD led the charge this year with 11 challenges, all of which resulted in bans. Houston ISD and Irving ISD tied for the second most this year with six challenges each. This marks quite the improvement for HISD, as the district reported 20 challenges last year. Unfortunately, only one of HISD's six challenges resulted in the book being retained without restriction.

While Irving ISD experienced just as many challenges, five of the six books challenged were retained without restriction: a sole book was restricted to the reference library. Tying for third was Seguin ISD and Klein ISD, each with four challenges.

Challenges by Grade Level

For the last two years, we have found most challenges to be occurring at the elementary school level. However, last year the rate of challenges experienced at the middle school level surged from 10% in 2006–2007 to 41% in 2007–2008. This year middle school challenges surpassed elementary school challenges. Also, 40% of challenges were to books housed in middle school libraries, down only 1% from last year.

The rate of challenges to books at the elementary school level decreased to 36%, down 11% from last year. Worth mentioning is the 10% decrease in challenges at the elementary school level; that is a 20% decrease over the last two years.

Challenges to high schools were up this year, however. While only 13% of last year's challenges were to books found in high school libraries, 22% of this year's challenges were to the same books. Lastly, this year 2% of challenges took place at institutions that cannot be neatly classified as one of the three grade levels mentioned above.

Reasons for Challenges

When we ask school districts about the challenges they have experienced we are especially interested in the reasons why books have been challenged. For each challenge, we ask which qualities of the book the challenging party found objectionable. In past years we have offered five choices, where choosing more than one is acceptable: “profanity,” “violence or horror,” “sexual content or nudity,” “mysticism or paganism,” and “other.”

Last year “other” topped the list as the most cited reason for challenging a book. We viewed this as a problem, as “other” is not informative. So, in an effort to be clearer we have added two new categories to the list of choices above: “politically, racially, or socially offensive,” and “drug or alcohol use.” We also replaced “mysticism or paganism” with “offensive to religious sensitivities.”

These changes were made because we found many

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Google book settlement delayed indefinitely

As currently written, the controversial settlement between Google and groups representing publishers and authors is officially dead. On September 24, a federal judge gave the parties time to negotiate a new deal that would address some of the many objections filed by various groups.

Judge Denny Chin of the United States District Court for the Southern District of New York granted a motion to delay an October 7 hearing on the settlement, which would pave the way for Google to create an immense digital library and bookstore. The motion was filed earlier this week by the Authors Guild and the Association of American Publishers, the plaintiffs in the case, and was unopposed by Google, the defendant.

Judge Chin said that it made no sense to hold a hearing on the current settlement since the parties have indicated that they are negotiating significant changes to it.

In his order, Judge Chin indicated that he took seriously the long list of objections that various parties have raised about the agreement.

“The current settlement agreement raises significant issues, as demonstrated not only by the number of objections, but also by the fact that the objectors include countries, states, nonprofit organizations, and prominent authors and law professors,” Judge Chin wrote. “Clearly, fair concerns have been raised.”

But Judge Chin also echoed comments made by the Justice Department the previous week that the settlement, if properly revised, could offer great benefits, most notably, by providing broad access to to millions of out-of-print books that are largely locked up in a small group of university libraries.

“The settlement would offer many benefits to society, as recognized by supporters of the settlement as well as D.O.J.,” he wrote, referring to the Department of Justice, which filed its own brief in the case. “It would appear that if a fair and reasonable settlement can be struck, the public would benefit.”

The first clear signs that the settlement in its current form would be derailed came late September 18 when the Justice Department raised a number of legal and antitrust objections to it. In its brief, the department also said that the parties appeared willing to renegotiate many aspects of the agreement to overcome its opposition.

The decision by the plaintiffs to ask for more time represented a stark reversal from earlier this year. In April, a group of authors and the heirs of others, including representatives of the estate of John Steinbeck, first asked the court to delay the fairness hearing and deadline for filing objections. The authors asked for a four-month delay, and the parties, eager to have the agreement approved quickly, reluctantly recommended a two-month delay. Judge Chin sided with the authors.

Observers say the delay provided the time necessary for the many critics of the deal, including the Justice Department, to come forward. The court received more than 400 filings, the majority of them raising issues about various parts of the agreement.

Instead of the scheduled fairness hearing, Judge Chin asked the parties to convene in court October 7 for a status conference. The purpose of the conference is to “determine how to proceed with the case as expeditiously as possible, as this case has now been pending for more than four years,” he wrote.

The Authors Guild and the Association of American Publishers sued Google in 2005 for copyright infringement over the company’s plan to scan books from major libraries and make them available online. The parties announced the settlement, which took two years to negotiate, in October.

The settlement also appears to be facing another challenge in a French court.

The \$125 million proposed settlement faced hundreds of opposing filings from individuals, rival companies like Amazon and Microsoft, advocacy organizations, groups representing authors and publishers and even some foreign governments. It received the support of companies like Sony, civil rights groups and some antitrust and economics experts in academia.

“The number and quality of opposition filings is very unusual,” said Jay Tidmarsh, a professor of law at Notre Dame Law School. “The court is going to have to look at the public interest in the settlement.”

Opponents say the agreement would give Google a quasi-exclusive license to profit from millions of out-of-print books and create a consortium that would have power to set prices for digital books. Google, the Authors Guild, and the Association of American Publishers have vigorously disputed those claims.

Opponents have raised other issues including contending that the settlement tramples on the rights of some authors and that it does not protect the privacy of readers.

On September 8, several groups filed briefs in opposition, including Microsoft and Yahoo, and a coalition representing those companies and others. The coalition, which calls itself the Open Book Alliance, opposes the agreement on antitrust grounds. The group is co-led by Gary Reback, an antitrust attorney in Silicon Valley who in the 1990s helped persuade the Justice Department to file its landmark antitrust case against Microsoft. He said the court could address some of the antitrust objections by forcing Google to license its database of digital books to others.

“Google should be ordered to license the database with all attendant rights to a number of competitors, under the supervision of the Justice Department,” Reback wrote in the brief. He traced the birth of Silicon Valley to a similar “compulsory license” mandated by the Justice Department. “Silicon Valley exists precisely because the Antitrust Division ordered AT&T to license its key invention, the

transistor, for nominal payments,” he wrote.

Defenders of the agreement say the antitrust concerns are unfounded and argued that others besides Google could obtain similar licenses without any mandates from the court.

“We have never said that the same kinds of outcomes would not be available to Microsoft or Amazon or anyone else who is willing to make the same investments,” said Richard Sarnoff, former chairman of the Association of American Publishers and co-chairman of the American unit of Bertelsmann, the parent company of Random House. “We have a road map to do it now.”

Opposition to the agreement also came from outside the United States, with the French and German governments filing briefs in opposition. In Japan, the author and freelance writer Shojiro Akashi made the September 4 edition of *The Japan Times* because of his concerns about what the deal, if approved, would mean for non-American copyright holders. That put him in the company of a multitude of other writers, including the American literary powerhouses Jonathan Lethem and Michael Chabon, who publicly told the court that this deal is not to their benefit.

Lethem and Chabon joined a coalition led by the Electronic Frontier Foundation, which filed an objection on September 8. Lethem pointed to one of the biggest concerns: privacy.

“Now is the moment to make sure that Google Book Search is as private as the world of physical books,” Lethem said in an EFF statement. “If future readers know that they are leaving a digital trail for others to follow, they may shy away from important intellectual journeys.”

On September 4, the Electronic Privacy and Information Center (EPIC) filed a motion to intervene in the case. EPIC director Marc Rotenberg said that the deal lacks privacy protections and would allow Google to mix the particularly sensitive book data with web search and other data Google collects on users. The result would be a particularly rich user profile that poses serious privacy issues.

“The settlement can be fixed if meaningful safeguards are established at the time the settlement is approved,” said Marc Rotenberg, EPIC Executive Director. “But those terms are currently lacking and so the settlement as it stands should be rejected.”

No privacy policy can fix the problem, Rotenberg said. “Privacy policies have done little to safeguard online privacy. They are written to allow companies to do what they intend to do. And without clear legal standards, government officials will go to Google for information on user activity as they did with libraries under the Patriot Act. If Google is genuinely concerned about the privacy of its users, it will support enforceable safeguards and strong technical measures to protect user data.”

In its motion EPIC argued: “Although the facts underlying

Amazon offers to replace copies of Orwell books

Online superstore Amazon invited some unflattering literary analogies this past summer when it remotely erased unlicensed versions of two George Orwell novels from its customers’ Kindle reading devices.

Jeffrey P. Bezos, Amazon’s chief executive, apologized to customers for the deletions in July. And on September 3 the company tried to put the incident behind it, offering to deliver new copies of *1984* and *Animal Farm* at no charge to affected customers.

Amazon said in an e-mail message to those customers that if they chose to have their digital copies restored, they would be able to see any digital annotations they had made. Those who do not want the books are eligible for an Amazon gift certificate or a check for \$30, the company said.

The message included Bezos’s mea culpa from July. “This is an apology for the way we previously handled illegally sold copies of *1984* and other novels on Kindle,” Bezos said. He went on to describe Amazon’s actions as “stupid, thoughtless, and painfully out of line with our principles.”

The troubles began when the novels were added to the Kindle’s online store by an outside company that did not have rights to them. After the rights holder alerted Amazon, it removed the unauthorized versions from its systems and from customers’ devices, distributing refunds.

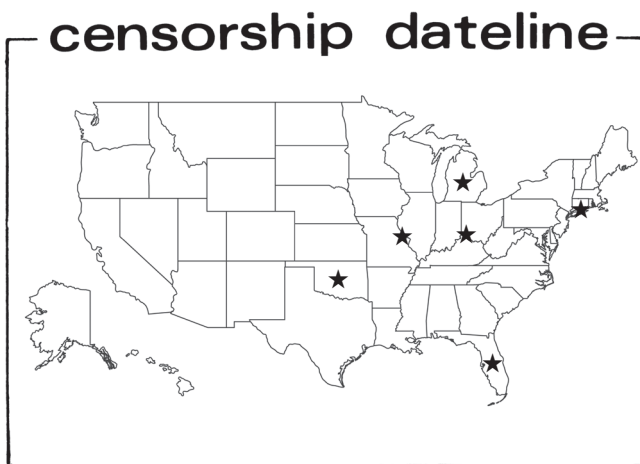
But neither the refunds nor the subsequent apology were enough for some critics, who said the incident underscored the depth of the restrictions built into the Kindle. Digital books for the Kindle are sold with so-called digital rights management software, which allows Amazon to maintain strict control over the copies of electronic books on its reader and prevents other companies from selling books for the device.

Consumer advocates and civil libertarians say the system could allow courts or governments to force Amazon to recall, and in essence censor, books that they deem politically dangerous or embarrassing.

The critics say the problem arises not just with Amazon, but also with other services offered online, like Google’s planned digital library or streaming music and video sites, that replace tangible products like books, CDs, or DVDs.

“There is this new prospect for control, and it is hard to imagine that regulators or litigants won’t notice,” said Jonathan Zittrain, a professor at Harvard Law School and author of *The Future of the Internet—and How to Stop It*. Litigants in defamation cases or government regulators could demand that these services remove entire works from their collections, or simply a word or paragraph that they found offensive, Zittrain said. Reported in: *New York Times*, September 4. □

(continued on page 210)



libraries

Leesburg, Florida

Responding to a call by parents, church, and community leaders concerned about provocative books available to teens at the Leesburg Public Library, city commissioners voted 4-1 September 28 to separate all books based on age groups. High-school books will be placed in a separate area in the library stairwell.

City Commissioner Bill Polk voted “no” on the measure. Earlier, Polk also was on the losing end of a 3-2 vote to label specific books with a “mature content” warning label. City Commissioner David Knowles sided with Polk in supporting the label idea.

“I don’t think we could be the ones to make that judgment,” said Commissioner Sanna Henderson, of the proposed book labeling. “If you’re going to get into that, it’s just going to open a big can of worms.”

About ninety people showed up for the meeting, with some spilling out the doorway entrance to the commission chambers. More than half of those on hand—people of all ages—were wearing red shirts. Commissioners were to consider whether to review more than 4,000 books in the young-adult section of the library for content and move the more racy materials into a separate area available for a high school audience.

Parent Dixie Fechtel, who gained the support of dozens of community members and First Baptist Church of Leesburg, began a movement more than a year earlier to have the procedure change after she noticed the books

her 13-year-old child borrowed from the library, including *Gossip Girl*, contained sexually explicit content. The group eventually identified twelve titles that they definitely wanted removed.

“Even if you dismiss our concerns tonight, this problem will not go away,” Fechtel said to commissioners.

Library Director Barbara Morse had suggested a compromise in which the books could remain in the young-adult section under new labeling for a high school section, so the books are available for a more mature audience.

Parents at the meeting voiced both support and opposition for the book challenge. “Age appropriate. I don’t want my kids looking at things that aren’t appropriate for their age. Put them in an adult section,” said Karen Horne.

“You need to explain sometimes why there is strong language instead of moving the book away and discussing the suggestive themes, because it’s something that kids are probably dealing with,” countered Ashley Bettis.

Some residents said they can live with the compromise. However, most people were not happy with the decision. In fact, Dianne Venetta, one of the women who spearheaded the movement, said the compromise solved nothing. Venetta wants the objectionable books to be separate from the other high school books. She said she will continue to fight for the cause. Reported in: *Orlando Sentinel*, September 29.

Owosso, Michigan

More than 300 area residents crowded into the Owosso Middle School Auditorium September 23 to discuss whether the Shiawassee District Library Board should place filtering software on all of its computers to prevent the public from accessing adult content. The meeting, which lasted more than four hours as dozens of people spoke during public comment, involved heated emotions and audience members yelling at the Board—but no resolution to the issue that brought the crowd out.

At its previous meeting, the Board tabled the issue of adopting a policy to deal with the viewing of adult content on library computers. This time the Board left the issue tabled, but took public input on the issue. The Board later voted, 5-1 with Trustee Beverly Adcock dissenting, to direct the library attorney Anne Seuryneck to investigate the various options of crafting an Internet policy and all the legal ramifications that would go into each potential policy.

“The Board will decide which is the best way to go once we have a legal opinion,” Trustee Travis Senk said. “Our attorney can tell us the pros and cons of each way to go. And then we can make an informed decision on how to best serve the community. . . . When you rush to make a decision without a firm policy in front of you, it doesn’t make any sense.”

The controversy began earlier this year when Owosso resident Catherine Loxen informed Board members her ten-year-old granddaughter accidentally saw a man viewing

adult material on a computer at the Owosso branch of the Shiawassee District Library.

At its June meeting, the Board voted to filter online content and the computers in the Owosso branch have since been using the filtering software “Untangle.” However, many of the advocates of filtering claim that the program is ineffective. The Board also has discussed leaving two computers unfiltered, although that idea proved to be unpopular for the majority of those attending the meeting.

The Board considered disabling Internet access completely until the issue is resolved, but it was noted there are other functions that require the Internet the library could not do without for an extended period of time, such as the book loan program that allows people to order books from other participating libraries.

More than fifty people addressed the Board about the issue of Internet filtering. The majority were in favor of having all the computers filtered, although several people did say at least some computers should not be filtered.

The public comment section of the meeting lasted for more than two hours, despite each person being allowed three minutes.

Durand resident Sam Black, who said he has worked in journalism, spoke to the Board. “I have a great, great concern for First Amendment rights,” he said, but added that he felt a library is supposed to be a place in the community that is secure. “It is historically a place where families can go to and feel safe. . . . I see this as the basic fact that I’m a dad and I don’t want my son to be exposed to pornography.”

Chiropractor Paul Demeritt, of Owosso, agreed. “I believe that pornography is an addiction that is comparable to cocaine, alcohol or any other serious addiction,” he said. “We—as a community—are opposed to pornography. That should be very clear to you at this point. . . . We need to act according to the wishes of our community and protect our community.”

But not everyone who spoke agreed. Suzanne Carpenter, a retired teacher, said she was afraid of where censorship will lead. “What is next, book burning? This is what the Nazi’s did when they first moved in,” she said. “They got rid of the freedom to have public information. That is what we are effectively beginning to do. There are ways we can limit who goes, who sees and what they see without saying, ‘Get rid of everything.’”

Tom Ford, an Owosso resident, also spoke out against the filtering. “I remember when I was growing up as a Catholic the Elvis Presley movie ‘Love Me Tender’ was condemned by the Catholic church and it was a mortal sin to see it. If you saw it today, it would be a G-rated movie,” Ford said. He added he was against pornography, but believes two of the computers should have no filters.

“We have to be very, very careful about censorship. It starts this way, and the next thing you know they are going to start looking at things they don’t agree with,” he said. Reported in: *Owosso Argus-Press*, September 24.

schools

Wyoming, Ohio

Wyoming, one of the highest-rated school districts in Ohio, is fighting accusations that it is considering banning certain books from its high school reading lists.

Earlier this year parents complained about the sexuality in *The Bookseller of Kabul*, and, on September 8, about *The Perks of Being a Wallflower*. Superintendent Gail Kist-Kline then sent a newsletter to parents, saying the district will review all books on reading lists. Staff members will rate each book, she said, on its relationship to the course, its uniqueness, its appropriateness, and the extent to which it “could create controversy among students, parents and community groups,” according to newsletter. “There is no truth to the rumors that books will be banned in the schools,” she added.

Kist-Kline explained in the letter that all books are under review because the district’s procedure for selecting books had not been followed.

Wyoming High senior Luci Simon said she fears the district will engage in censorship. She and other classmates planned a lunchtime “read-in” to protest. Instead of holding signs and marching, they observed Banned Books Week by sitting on grass, reading books that have been banned or challenged in the past, including *To Kill a Mockingbird* and the *Harry Potter* series.

“Call me a bleeding-heart liberal, but I’m all about protecting your First Amendment rights,” she said. “Why are you telling me that I can’t do something because you don’t agree with it?”

The Perks of Being a Wallflower, a coming-of-age book by Stephen Chbosky, is on the suggested reading list for Wyoming’s freshmen, along with 22 other books. Students pick from the list to fulfill assignments, which vary by class. The book contains frank and sometimes explicit descriptions of sex, drugs, suicide, and masturbation.

The Bookseller of Kabul also drew parent complaints for sexual content, but Wyoming in August decided to keep it on the recommended list.

Dale and Patty Hipsley, the Wyoming couple who complained about *The Perks of Being a Wallflower*, say they want teachers to be more selective in their book lists. The book, they said, violates the school’s own standards for objectionable writing and speech. They used the student handbook, district computer and Internet guidelines, and state educational standards to make their point.

“If . . . *The Perks of Being a Wallflower* were to be made into a film, it would garner at least an R rating and most probably the rating of NC-17—no one 17 and under admitted,” Dale Hipsley wrote. Hipsley, who owns a café with his wife, urges adults to read the book and decide for themselves whether it’s appropriate for high school freshmen before they judge his complaint. “This material exposes 14-year-old children to behavior many are not mature

enough to understand,” he said. Reported in: *Cincinnati Enquirer*, September 28.

Norman, Oklahoma

A visit by a best-selling author to a Norman middle school was canceled after a parent questioned the content of one of the author’s books.

Author Ellen Hopkins was scheduled to speak to eighth-graders at Whittier Middle School September 22 about her career, writing process, and books. Hopkins is the author of several *New York Times* best-selling books for young adults. She was notified September 16 that her visit was canceled because a parent at the school requested a review of her book *Glass*.

The free-verse novel is the second in a series about a teen dealing with drug addiction. The novel is loosely based on Hopkins’ experience with her own daughter, who was addicted to methamphetamines.

Norman policy allows parents to exclude their children from events or request a review of curriculum, Superintendent Joe Siano said. A parent requested an official review of *Glass* the week before Hopkins’ scheduled visit. Because curriculum review is a lengthy process, a decision couldn’t be made before the author’s visit, he said. “I made a decision that while it was under review, it wasn’t appropriate for the author visit to continue,” Siano said.

An internal committee made up of administrators, teachers and librarians will review *Glass* and possibly Hopkins’ other books to see if they should be in middle school libraries, Siano said. The district’s policy is to leave the books on the shelves until a decision is made.

“This is not an issue of the author or quality of her work,” he said. “The question is about the appropriateness of the book for this age level.”

All of Hopkins’ books deal with serious issues that teens face, she said. She’s trying to show students what could happen if they make bad choices and go down those paths. “I’ve done hundreds of school visits, and I certainly have sensitivity to those audiences,” Hopkins said. “I always focus on an anti-drug message. Instead of trying to shoot the messenger, why don’t you open the book and look at the message?”

She describes her books as raw and honest, targeted to readers age 14 and older. “It’s a very honest look, and it needs to be an honest look to make young people think,” she said. “I want to make them look at how their choices affect them in the future and affect those who love them.”

Jamie Chosak, director of Kids Right to Read Project, said her organization plans to get involved. The organization is a collaboration of the American Booksellers Foundation for Free Expression and the National Coalition Against Censorship. It tracks censorship issues across the nation. Chosak said she plans to send a letter to the school district because she thinks it’s both censorship and a free

speech violation. One parent’s issue with a book shouldn’t keep other students from having the choice to read it, she said.

Hopkins, who lives in Nevada, decided to come to Oklahoma anyway because she had already paid for a plane ticket. Whittier librarian Karin Perry, who won the author visit in a charity auction, scheduled an off-campus event for students and their parents who would still like to hear Hopkins speak. Reported in: *Daily Oklahoman*, September 22.

Brampton, Ontario

The following is the text of an editorial published August 14 in the *Barrie Examiner*:

One complaint and a Brampton high school principal folded like a cheap tent and removed one of the 20th century’s finest books from the Grade 10 curriculum.

One complaint and St. Edmund Campion Secondary School students can no longer study Harper Lee’s classic *To Kill A Mockingbird* in the classroom. They can still read the book, which is available in the school’s library and in local bookstores. One complaint hasn’t banned it there, at least not yet.

But it’s ridiculous that this complaint from a parent will deprive students from studying a novel which won the Pulitzer prize for literature in 1961. This principal certainly had options. He could have stood by the book, told the parent of its merits, and said it would be taught.

The offended parent also had options. His or her teenager could have asked to read another book in place of *To Kill A Mockingbird*. At least then the other 25 or 30 students in the class would not have been deprived of the experience of discussing and writing assignments about Lee’s classic.

Not to mention learning about the fictional lives of Atticus Finch, his children Scout and Jem, Boo Radley, Tom Robinson and the Ewell family.

This parent reportedly objected to language used in *To Kill A Mockingbird*, including the word nigger. It’s an ugly, offensive word, one of the ugliest, most offensive in the English language, but Lee uses it to help portray racial injustice in the American south.

An excerpt from *To Kill A Mockingbird* shows how Lee uses the word.

“Scout,” said Atticus, “nigger-lover is just one of those terms that don’t mean anything—like snotnose. It’s hard to explain—ignorant, trashy people use it when they think somebody’s favouring Negroes over and above themselves. It’s slipped into usage with some common people like ourselves, when they want a common, ugly term to label somebody.

“You aren’t really a nigger-lover, then, are you?”

“I certainly am. I do my best to love everybody . . . I’m hard put, sometimes—baby, it’s never an insult to be called what somebody thinks is a bad name. It just shows you how

poor that person is, it doesn't hurt you."

Is this really the type of literature teenagers should be protected from, if such a thing even exists?

Removing *To Kill A Mockingbird* from this year's class will not protect St. Edmund Campion students from the sometimes ugly, offensive nature of the world that awaits them after high school.

Unfortunately, this sort of censorship is the norm in a society which is clearly afraid of its own shadow.

Political correctness has become a threat to free speech. Everyone is worried that someone might be offended by the written or spoken word. Which is probably why this school principal caved and banned *To Kill A Mockingbird*. That, and it was just the easiest thing to do.

But the easy road is not one this principal should be allowed to travel. The same goes for the Dufferin-Peel Catholic School Board, which has washed its hands of the decision. Or Ontario Education Minister Kathleen Wynne, whose reaction is that this is a chance to replace *To Kill A Mockingbird* with a Canadian book.

Parents should complain to school officials about removing this book from this class's curriculum. They should tell the principal that this decision offends them. Because if nobody speaks up, school officials will think it's OK to remove books based on one complaint.

It isn't.

Reported in: *Barrie Examiner*, August 14.

San Juan, Puerto Rico

Several university professors in Puerto Rico are protesting a decision to ban five books from the curriculum at public high schools in the U.S. territory because of coarse language.

The Spanish-language books previously were read as part of the eleventh grade curriculum, but proofreaders this year alerted education officials about "coarse" slang, including references to genitalia in *Mejor te lo cuento: antologia personal*, by Juan Antonio Ramos. Also among the banned books is the novel *Aura*, by Carlos Fuentes of Mexico, one of Latin America's most prominent contemporary writers. The other four authors affected are from Puerto Rico.

Magali Garcia Ramis, a communications professor at the University of Puerto Rico, expressed concern about how books are being evaluated by the island's Department of Education. "This kind of mentality rejects everything that is art and only associates sexuality with inappropriateness," Garcia Ramis said.

The island's secretary of state, Kenneth McClintock, showed his support for screening books when he updated his Facebook status. He said he was "glad that Secretary of Education Chardon is taking a hard look at the rough vocabulary in some assigned-reading books!"

Silvia Alvarez Curbelo, another communications professor at the University of Puerto Rico, said so-called bad

words have to be considered in their context. She and other professors said the ban was reminiscent of censorship imposed by the Taliban, the extremist Islamic movement whose regime in Afghanistan once banned music, movies, TV, and nearly all other forms of entertainment as part of their strict interpretation of Islamic laws, or Shariah. "These kind of things happened in Afghanistan under the Taliban," she said of the book ban.

Fuentes's *Aura* includes a brief romantic encounter beneath a crucifix. It is a scene that prompted Mexico's former interior secretary to try to have the book dropped from a reading list at his daughter's private school, without success. Fuentes said last year that the attempt boosted sales of the book.

The other banned books are *Antologia personal*, by Jose Luis Gonzalez; *El entierro de Cortijo*, by Edgardo Rodriguez Julia; and *Reunion de espejos*, a compilation of essays by Jose Luis Vega. Reported in: Associated Press, September 12.

publishing

New Haven, Connecticut

Yale University Press has removed cartoons of the Prophet Muhammad from an upcoming book about how they caused outrage across the Muslim world, drawing criticism from prominent alumni and a national group of university professors. Yale cited fears of violence.

The press removed the twelve caricatures from the book *The Cartoons That Shook the World*, by Brandeis University professor of politics Jytte Klausen. A Danish newspaper originally published the cartoons—including one depicting Muhammad wearing a bomb-shaped turban—in 2005. Other Western publications reprinted them.

The following year, the cartoons triggered massive protests from Morocco to Indonesia. Rioters torched Danish and other Western diplomatic missions. Some Muslim countries boycotted Danish products.

Islamic law generally opposes any depiction of the prophet, even favorable, for fear it could lead to idolatry.

The move was made after the university consulted with outsiders, some of them national-security experts, who said the images could incite violence. The author reluctantly agreed to the removal of the images but has made it clear in interviews that she is not happy about it.

Klausen was surprised by the decision when she learned of it in July. She said scholarly reviewers and Yale's publication committee comprised of faculty recommended the cartoons be included.

"I'm extremely upset about that," Klausen said.

The experts Yale consulted did not read the manuscript, Klausen said. She said she consulted Muslim leaders and did not believe including the cartoons in a scholarly debate would spark violence.

Klausen said she reluctantly agreed to have the book published without the images because she did not believe any other university press would publish them, and she hopes Yale will include them in later editions. She argues in the book that there is a misperception that Muslims spontaneously arose in anger over the cartoons when they really were symbols manipulated by those already involved in violence.

The press has been accused of caring more about a generalized threat than about scholarship and academic freedom. The Yale administration has been blamed for inserting itself into the press's editorial affairs. There have been cries of "follow the money" from those who believe that some potential donor brought pressure to bear on the university. (Linda K. Lorimer, a vice president and secretary of Yale, called the suggestion insulting.) It will take time to sort out answers.

Some say this will have a chilling effect on scholarship, while others say it was a rare response to a rare situation.

Klausen's book is by all reports no polemic. It examines the controversy over the cartoons, published in the Danish newspaper *Jyllands-Posten* in September 2005, that set off protests and violence with their depictions of the Prophet Muhammad, among other images. Klausen is a social scientist, not an art historian, but her argument draws on visual evidence. She especially wanted to reproduce the original newspaper page with the cartoons, along with older illustrations that included a Gustave Doré engraving of the prophet's torment described in Dante's *Inferno*.

Klausen and her publisher probably expected that the book would attract only modest attention outside scholarly circles. Now it has become a hot item even before publication, which was bumped up from November to September in response to the brouhaha.

The decision to purge the book of images set off a cascading series of reactions and excoriations. The Yale press issued a written statement that explained how it had weighed the risks, asked the university for assistance, and listened to the opinions of the outside consultants whom Yale brought in.

"The decision rested solely on the experts' assessments that there existed a substantial likelihood of violence that might take the lives of innocent victims," the press said.

The statement did not appease critics. Commentators on the left and the right accused the press and the university of cowardice and of abandoning their duty to protect freedom of inquiry. Christopher Hitchens, in *Slate*, wrote that "the capitulation of Yale University Press to threats that hadn't even been made yet is the latest and perhaps the worst episode in the steady surrender to religious extremism."

The situation seems extraordinary, one in a million. But what's to prevent a publisher from deciding that it's too risky to publish other material with a history of provoking violence? Some observers wonder whether one act of preemptive appeasement won't lead to another, and another.

That's a point emphasized by Cary Nelson, president

of the American Association of University Professors. Hours after the *Times* article revealing the move appeared, Nelson's group took the unusual, even unprecedented step of publicly condemning the press. In a written statement, "Academic Freedom Abridged at Yale Press," Nelson said that "we deplore this decision and its potential consequences."

In an interview Nelson called the press's action "fundamentally cowardly. You don't see academic books waved around in the street with large mobs protesting. It's a bridge too far to worry about that."

Asked whether we are likely to see more such episodes of what some have called self-censorship, Nelson said, "I guarantee you will," observing that text can offend, too. "That's why this is a slippery slope," he said. "If presses start chickening out on text as well, it seems we really don't have academic freedom."

John E. Donatich, director of the Yale press, dismissed the idea that the episode sets a precedent. "I absolutely conclude that this was an extraordinary case," he said. "I have been involved with a number of controversial books that the university supported. This was a very special case."

Donatich said there wasn't time for the experts to read the book, but they were told of the context. He said reviewers and the publications committee did not object, but were not asked about the security risk.

The Yale press will not be more risk-averse in the future, said Donatich. "I don't see any way in which this will change the way we acquire. We've never shied away from controversial material," he said. "And not only are we proceeding to publish Klausen's book, we are crashing the production schedule to take advantage of the media. We are supporting the book completely and boldly, and publishing the complete text. We have also heard from many who are sympathetic with or supportive of the decision as reasonable and responsible. These, however, are not the people who are self-selecting on the Internet."

He disputed the idea that academic freedom is at stake. "We are not censoring or suppressing any original content," he said. "Moreover, the author and the press are in full partnership in publishing the book aggressively, despite our disagreement in presentation. We have found a way to continue to be partners in publishing the book. The commentary seems to miss that fundamental point."

Klausen probably wouldn't use the term "full partnership" to describe the relationship. She understands the worry over the cartoons from the Danish newspaper, although it was the layout of the newspaper page itself that she particularly wanted to include. She hasn't received any threats herself, and "there's never been any violence" over the Doré engraving. And the press knew from the start what it was dealing with. She said she understands that "universities are risk-averse institutions" with a duty to protect employees and students, but "I do think there are some very large principles at stake."

She described herself as amazed, even amused, by the controversy. “There’s been such a mismatch between my book and the response,” she said. “It’s like going after sparrows with cannons.” Still, she fears that this kind of controversy will push other scholars away from controversial subjects. “I think it has a chilling effect on the field,” she said. “I have tenure, I need not worry about what the consequences will be for promotion or anything like that. But for sure, if you are a young professor writing in this area, well, risk aversion would indicate that you don’t walk down this road.”

“Legally speaking, it’s probably an exaggeration” to say that academic freedom has been abridged here, she said, but “in principled terms, I think the AAUP statement is probably correct.”

It worries her that the decision to remove the illustrations was encouraged by consultants, many of them not academics but national-security types who did not actually read the book. “We in academic publishing have to work under this dark cloud of unspecified and generic risk,” she said. “That brings us into new territory that I find quite scary.”

She’s also taken heat for not switching publishers. “I’m being described as an appeaser,” she said. “The sense is that I should have just stood on principle and taken my book to another press. That’s not so easy to do, because university publishing is a very slow process. I didn’t have any offers from other publishers.”

Nelson applauded Klausen for staying with the press. “She has focused the moral and academic issues by keeping Yale involved,” he said. “She would have been helping Yale avoid criticism by moving to another publisher. By basically fighting with Yale in public on the issue, she has forced them to confront the consequences of their decision.”

The substance of Klausen’s book is a detectivelike narrative that turns on this question: How did twelve drawings in a provincial daily newspaper provoke an international crisis?

The cartoons that challenged the Muslim taboo against pictorial representations of the Prophet Muhammad were published on September 30, 2005, in the Danish newspaper *Jyllands-Posten*. A few of the images did not actually depict Muhammad, while others, like a caricature of the prophet wearing a bomb-shaped turban, seemed designed to offend. The pictures appeared with an essay by the culture editor of the newspaper, Flemming Rose, who explained the decision to commission and print the cartoons as a principled response to a disturbing trend toward self-censorship in Europe. He condemned Muslim hypersensitivity. In a free society, Rose wrote, “everybody must be willing to put up with sarcasm, mockery, and ridicule.”

Within days of publication, a coalition of four prominent Danish imams called for a retraction and an apology, emphasizing their demands by staging a rally in front of city hall in Copenhagen. After that, the outrage in Denmark seemed to ebb. But six months later, violent street

demonstrations against the cartoons broke out in the Middle East and North Africa. Five hundred thousand people turned out to protest the cartoons in Lebanon; a militant organization in Pakistan placed a bounty on the head of the Danish cartoonists; the Arab League and the Organisation of the Islamic Conference lodged formal complaints with the Danish government; Denmark’s consular offices were attacked in some Middle Eastern countries; Scandinavian products were subjected to a global boycott.

Distilling four years of research into a slender volume, Klausen meticulously traces the motivations and misunderstandings that inflamed the events. She interviewed many of the chief protagonists—high-ranking Arab diplomats and government officials, Muslim leaders, and the editors of *Jyllands-Posten*—and concludes that the affair is Rashomon-like in its complexities and contradictions.

“Each understood the facts differently,” Klausen writes, “and was poorly equipped to understand the motives that drove the actions of others.” The Dutch tended to view the outcry as a challenge to democratic values like free speech, while many Muslims were genuinely aggrieved by what they believed to be blasphemous cartoons. Denmark has legal prohibitions against both blasphemy and racial hate speech.

What were the actual motivations? The protest movement was not a coordinated effort. In fact, it was quite fragmented. Danish mosque activists and other European Muslim associations tried to seek legal redress for what they perceived as the cartoons’ Islamophobic derision of their faith; radical extremists seized upon the cartoons in the hopes of destabilizing Western-allied governments in the Muslim world; and those governments—especially in Egypt—looked upon the cartoons as an opportunity to push back against the West, which was pressuring the country to liberalize. By stoking the outrage, Arab governments sent a clear message to America and its allies in Europe: The alternative to our friendly authoritarianism is effigy-burning mobs attacking your embassies. The Danes became a proxy for the larger argument of Arab countries, who “felt squeezed between Western Islamophobia and the pressure to democratize on one side and, on the other side, Muslim radicals.”

Cartoon-related violence ultimately claimed at least 200 lives. As a result of the tumult, Klausen says, there has been an uptick in censorship and self-censorship in the West. In December, 2006, for instance, a Berlin opera house canceled a performance of Mozart’s opera *Idomeneo* in which the severed head of Muhammad was to be used as a prop. No protests or threats had been made against the production. Other examples abound, including, now, Klausen’s own book.

During the height of the cartoon controversy, one popular retired Danish politician declared that “a little self-censorship is not a bad thing.” But when does respect for cultural sensitivities drift into a curb on freedom of speech? What

is the proper balance between responsible and free speech? “I don’t think free speech gives you license, particularly not as an academic, to say or print anything you want,” Klausen says. “As academics we have an obligation to speak on the basis of evidence and facts, but with sensitivity to religious precepts. But those precepts—be they Muslim, Christian, or Jewish—can’t dictate what we do.” The removal of the cartoons from her book, she says, violated that commitment to evidence and facts. “Worse,” she adds, “this is historical evidence that has been removed from eyesight.” Reported in: *Chronicle of Higher Education* online, August 26, September 29; Associated Press, September 8.

university

St. Louis, Missouri

David Horowitz, the controversial conservative critic of alleged leftist domination of academia, is getting backing from his usual critics after Saint Louis University sought to change or block (depending on who one is talking to) a planned lecture he was scheduled to give on the campus in September.

The event—“An Evening with David Horowitz: Islamo-Fascism Awareness and Civil Rights”—was organized by the College Republicans and Young America’s Foundation, which say they were banned from hosting Horowitz. The university denies that it banned Horowitz, but acknowledges that it told the students that they should modify the event.

“University officials expressed concern that the program in its current form could be viewed as attacking another faith and seeking to cause derision on campus,” said a university statement. “Believing that this was not their intent, University officials offered the students several suggestions to modify their program in a way that could achieve their aims while remaining true to the university’s Catholic, Jesuit mission and values. Among the suggestions was that the students engage scholars with expertise on historical and theological aspects of Islam to help prepare their program.”

The university said that it cannot be said to have banned the talk because it was still in discussions with student groups about the issue when they decided not to continue the negotiations.

Horowitz’s talks about Islam and what he calls “Islamofascism” have been controversial, with many saying that he distorts history in a way that denigrates all Muslims. But he is also a popular speaker with conservative groups, who regularly bring him to campuses to speak. On some campuses, his appearances prompt protests, but at other campuses he ends up largely speaking to those who agree with him.

Cary Nelson, national president of the American Association of University Professors, issued a statement

on the association’s Web site, denouncing the university in harsh terms.

“Now that Saint Louis University has cancelled a scheduled October speech by conservative activist David Horowitz, it joins the small group of campuses that are universities in name only,” Nelson wrote. “The free exchange of ideas is not just a comforting offshoot of higher education; it defines the fundamental nature of the enterprise. As the AAUP has long asserted, all recognized campus groups have the right to invite any speakers they wish. The College Republicans exercised that right. There should not have been a mechanism in place for the administration to review the offer to Horowitz and withdraw it. The administration’s claim to support academic freedom has been hollowed out by the practical and symbolic effects of this one public act,” said Nelson. “A campus that enforces ideological conformity supports indoctrination, not education.”

Nelson and Horowitz have long criticized one another’s views of higher education. Likewise, another Horowitz critic—John K. Wilson—criticized Saint Louis University on his blog, *College Freedom*. Wilson quoted from exchanges between the student organizers and Horowitz, which suggest that the university’s decision was based on opposition to Horowitz’s views.

“If the administration at SLU disagrees with Horowitz (and I hope they do), then they are free to express their opposition,” he wrote. “They are free to attend Horowitz’s lecture and criticize him. They are free to boycott Horowitz’s lecture and denounce him. They are free to invite a speaker every day of the week to come to campus and refute what Horowitz says (I’ll volunteer to be first in line). But they are not free, in any university worthy of the name, to suppress a speaker because he is offensive and wrong.”

Horowitz said that university officials had suggested that he calls Muslims fascists, which Horowitz said was a “gross and demonstrable lie.” He called the university’s action “raw censorship” but said he was “pleased to see the AAUP defending me, as they should.” Reported in: *inside-highered.com*, September 29.

foreign

Melbourne, Australia

Primary school students in Australia have been banned from reading the teen cult *Twilight* books because they are too racy. Librarians have stripped the books from shelves in some junior schools because they believe the content is too sexual and goes against religious beliefs. They even have asked parents not to let kids bring their own copies of Stephenie Meyer’s smash hit novels—which explore the stormy love affair between a teenage girl and a vampire—to school.

Santa Sabina College at Strathfield was so concerned about the *Twilight* craze that teachers ran a seminar for Year

6 students to discuss sexual and supernatural themes in the books. The school's head librarian Helen Schutz said: "We don't have a policy of censorship but the issues in the *Twilight* series are quite different from the *Harry Potter* classics. It is not available in our junior library for these reasons."

She said that younger kids read the book—which has been turned into a smash hit movie—so they could "talk the talk and are part of the cool crowd." But teachers addressed the primary students because they were concerned they might be too young to deal with the adult themes.

"There was a great level of concern from the teachers and we anticipated there would be concern from the parents," Schutz said. "We wanted to make sure they realize it's fictitious and ensure they don't have a wrong grasp on reality."

The four *Twilight* books trace the love affair between Bella Swan, who moves to a new school, and Edward Cullen, a mysterious heartthrob who belongs to a family of vampires. The line between real life and fiction has been further blurred by constant speculation that on-screen stars Robert Pattinson and Kristen Stewart are off-screen lovers.

Catholic Education Office spokesman Mark Rix said individual schools had to decide whether the books were suitable. "It comes down to the discretion of the school to keep an eye on what the kids read," Rix said. "Some primary students are not ready to read *Twilight*. That said, some secondary students may not be either."

Balmoral's Queenwood School for Girls head librarian Heather Voskyl said only senior school students were allowed to borrow the books from the library. "There isn't a lot written for the Year 4 to 5 age group so they are quickly pushed into higher reading age groups. There is a mismatch between their level of maturity and their level of reading," she said.

St. Anthony's Catholic primary school in Picton has asked parents not to let their children bring the book to school.

Emmi Payten, 10, from Bellevue Hill, has read three quarters of the first *Twilight* book. "I know it's all just fantasy. I think it's really good, really interesting and bits of it are really funny," she said. Reported in: *Daily Telegraph*, September 12

Jerusalem, Israel

A bitter and very public debate in Israel has raised difficult questions about how far an academic can go in criticizing his own institution while continuing to work there.

In August, Neve Gordon, chairman of the department of politics and government at Ben-Gurion University of the Negev, branded Israel an "apartheid state" in an op-ed essay in the *Los Angeles Times*. He called for an "international boycott" of his country, including his own university.

The university's president, Rivka Carmi, quickly shot

back an angry response. In the same newspaper and in a letter to faculty members, she noted that Gordon, a tenured professor, could not be "readily dismissed." But, she said, he had "forfeited his ability to work effectively within the academic setting."

Both Gordon's attack on Israel and Carmi's attack on one of her faculty members have inspired impassioned debates in Israel and beyond. The Israeli Social Science Network, an online forum that usually carries notices of conferences and opportunities for financial support, was transformed into a heated intellectual battleground as Israeli academics debated the implications for academic freedom in the country. Nearly 200 tenured faculty members in Israel signed a petition supporting Gordon's right to freedom of expression.

The professor's future at Ben-Gurion seems assured by the legal protection he enjoys through tenure, but many of his colleagues say they find his position untenable. Many others support and admire him, while still others disagree vehemently with his opinions but defend his right to express them. Nagging questions persist about whether the controversy will dissuade junior faculty members and students from freely expressing their opinions.

"I was not surprised by the fact that the president of the university and people in Israel disagreed with me and even disagreed with me vehemently," Gordon said. "I think it's part of some of the people's job, and I think that's what they were supposed to do." But he said that suggestions he should leave Israel or be sacked "went just overboard."

Carmi said she had spent years defending the right of her rebellious political-science professor to express his radical views about Israeli policy, but that this time he had gone too far. "If I had lived in South Africa when it was an apartheid country, I would have left," she said. "I wouldn't be able to live in a country that I believed was an apartheid state."

"I don't understand how he can carry on doing his job in an institution that he is damaging by his very public comments. I don't understand how he can condemn the university and continue to take the salary that it pays," Carmi said. "There is an inherent contradiction between calling for academic boycotts and fulfilling the responsibilities of leading an academic department in research collaboration, publications, and international conferences."

Carmi said Gordon's opinion essay had branded Ben-Gurion as a radical, left-wing university and was endangering potential donations, crucial for future development. Several major donors have written to say they will no longer support the university unless action is taken against him, she said.

Gordon said he accepted that there was "tension" between his support for a boycott and his duties as department chairman, and he said he had considered stepping down. But he called Carmi's comments "a form of harassment and intimidation."

"My stepping down as department chair would have

caused so much damage to academic freedom in Israel that we could not do it," he said. "If someone has to lose his position as department chair because of his opinion, however controversial, it creates a precedent."

Alon Tal, a veteran peace activist and associate professor of desert ecology at the Jacob Blaustein Institutes for Desert Research at the university, said Gordon had done "a disservice" to the peace camp and undermined the work toward Israeli-Palestinian coexistence at which the university excels.

"The country is in a state of war—let's not lose that context," Tal stressed. "People forget that. And you go to our enemies and you give them comfort and you strengthen their activities, and most of all you take actions that you know will damage your own university that supports you. That I find unacceptable."

He said Gordon should resign as department head and apologize. "When you take on a position as a head of department, you represent an institution. You don't represent just yourself," Tal said.

Uri Ram, head of Ben-Gurion's sociology department, agreed but drew different conclusions. "There is a tension between a call to boycott Israeli universities and working in them and promoting them," he said. "Yet it should be left to Dr. Gordon to decide whether he can perform properly as department chair with this contradiction or not. He should not be sanctioned with discharge because he expressed an opinion. He is entitled unequivocally to freedom of expression."

Ram said he would resign as department head if Gordon was forced to step down, and he urged his colleagues to do the same.

The online petition in support of Gordon's academic freedom was started by Alon Harel, a law professor at the Hebrew University of Jerusalem. He said he "vehemently" disagreed with Gordon's opinions but warned that it would be "death for Ben-Gurion University" if Gordon were not allowed to express them.

"The stakes are quite high. The stakes are the future of Israeli academia," he said. "It would be a great loss to Israeli universities if people completing their Ph.D.'s and looking for a job believe they cannot teach at Ben-Gurion because their positions are ones that the president of the university does not tolerate."

Cary Nelson, president of the American Association of University Professors, said he was disturbed by Carmi's attitude but encouraged by the debate it had aroused. "The kind of statements that Rivka Carmi has made have an immense chilling effect on untenured faculty from exercising the same freedom of speech," he said. "If Neve Gordon had been untenured and had written this op-ed and then came up for tenure, a president who says this oversteps the boundaries of academic freedom would seem implicitly willing to fire him."

"One of the greatest challenges for any nation-state is to

protect the free-speech rights of its citizens and its faculty members during times of war," Nelson continued. "My own country has repeatedly failed that challenge. Israel is hardly alone in finding it difficult to meet the challenge of sustaining freedoms in wartime. The rest of the countries in the Middle East wouldn't even consider such a thing. In Syria they already would have shot him. In Iran they'd just beat him to death in a jail."

"I do think it is valid in thinking about the status of these freedoms in Israel," Nelson said, "to recognize that Israel is practically the only country in the Middle East where you could even have this debate." Reported in: *Chronicle of Higher Education* online, September 13. □

Vermont Library Association . . . from page 195)

National Security Letters Reform Act (S. 2088 in the 110th Congress and H.R. 1800); now therefore be it

Resolved that the Vermont Library Association:

1. Opposes initiatives on the part of the United States government to constrain the free expression of ideas or to inhibit the use of libraries;

2. Urges Congress to repeal the USA PATRIOT Act's expanded National Security Letter Section 505 and Section 215 authorities that allow the FBI to demand information about people who are not targets of an investigation and to reinstate standards limiting the use of these authorities to obtain information only about terrorism suspects and agents of foreign powers.

3. Urges Congress to allow nondisclosure or "gag" orders of limited scope and duration only when necessary to protect national security and only upon the authority of a court and ensure that targets of such orders have a meaningful right to challenge them before a fair and neutral arbiter.

4. Urges Congress to intensify its oversight of the use of the USA PATRIOT Act as well as other government surveillance and investigations that limit the privacy rights of library users, library employees, and U.S. persons; and

5. Communicates this resolution to Vermont's Congressional Delegation, the Vermont Legislative Assembly, the Governor of the State of Vermont, and the Vermont State Librarian; and

6. Urges its members, Vermont librarians, Vermont library trustees, and all library advocates to ask Congress to restore crucial safeguards protecting civil liberties. □

Google book settlement delayed . . . from page 200)

this lawsuit are fairly narrow, the Settlement is unprecedentedly broad. It mandates the collection of the most intimate personal information, threatens well established standards that safeguard intellectual freedom, and imperils longstanding Constitutional rights, including the right to read anonymously. Furthermore, it threatens to eviscerate state library privacy laws that safeguard library patrons in the United States. EPIC is uniquely qualified to advocate for readers' privacy interests, which have heretofore been unrepresented by any party to this lawsuit."

An array of groups and institutions filed *amicus curiae* briefs and issued statements in support of the Google Books settlement. In academe, supporters include Cornell University Library, the University of Virginia, the University of Wisconsin at Madison, and the Association of Independent California Colleges and Universities (speaking for similar associations in Arkansas, Florida, Iowa, and South Carolina). Thirty-two professors of antitrust law and economics have filed a motion in support. Social-justice and disability-rights advocates have endorsed the deal. Library groups have called for strict oversight of the settlement, if it's approved, but appreciate the possibilities created by putting so much material within easy reach.

The nation's top copyright official, Marybeth Peters, the United States register of copyrights, testified September 10 before the House Judiciary Committee and said the settlement between amounted to an end-run around copyright law that would wrest control of books from authors and other rights holders.

Peters, the first government official to address the settlement in detail, said it would allow Google to profit from the work of others without prior consent and that it could put "diplomatic stress" on the United States because it affected foreign authors whose rights are protected by international treaties.

But David Drummond, Google's chief legal officer, who also testified at the hearing, defended the agreement saying it let authors retain control of their books and would expand access to millions of out-of-print books that are largely hidden in libraries.

Peters said that in granting something like a "compulsory license," a requirement that rights owners license works to others, the settlement essentially usurped the authority of Congress and skirted deliberations.

"In essence, the proposed settlement would give Google a license to infringe first and ask questions later, under the imprimatur of the court," Peters wrote in her prepared testimony.

In a concession that appeared intended to allay complaints that the class-action settlement would grant Google quasi-exclusive rights to profit from millions of books, Drummond told legislators that Google would allow rivals like Amazon or Barnes & Noble to sell online digital copies of out-of-print books that Google has scanned from libraries.

Drummond said that he found the objections of the Copyright Office unfounded.

"We think the settlement is legal, and we think it is structured well within the guidelines of what you can do in a class action settlement," he said. "It certainly it is not usurping Congress's authority to do whatever it wants."

And he said that it was inappropriate to call the agreement a "compulsory license," because authors can ask Google at any time to remove their books from the database.

Some members of the Judiciary Committee also were skeptical of Peters's arguments and appeared to side with Google.

"At any time you can order Google to remove your material and tell them not to sell it," Zoe Lofgren, Democrat of California, said in an interview. "All of the rights are in the hands of the rights holders." Reported in: *New York Times*, September 9, 11, 24; *Chronicle of Higher Education* online, September 10; ZDNet, September 4. □

**SUPPORT
THE FREEDOM
TO READ**

from the bench



U.S. Supreme Court

The next great First Amendment battle in the Supreme Court concerns, of all things, dogfight videos.

The ones at issue in the case are old and grainy, and they feature commentary from the defendant, Robert J. Stevens, an author and small-time film producer. Stevens calls himself an educator, and his subject is the history and status of pit bulls.

“For centuries,” Stevens exclaimed on one videotape, “the American pit bull terrier has reigned supreme as the gladiator of the pit!”

Stevens, 69, had nothing to do with the dogfights themselves. But he did compile and sell tapes showing them, and that was enough to earn him a 37-month sentence under a 1999 federal law that bans trafficking in “depictions of animal cruelty.”

The Supreme Court will hear his case, which has divided animal rights groups and free-speech advocates, on October 6. The central issue is whether the court should for the first time in a generation designate a category of expression as so vile that it deserves no protection under the First Amendment. The last time the court did that was in 1982; the subject was child pornography.

Dogfighting and other forms of cruelty to animals are illegal in all fifty states. The 1999 law was aimed solely at depictions of such conduct. A federal appeals court last

year struck down the law on First Amendment grounds and overturned Stevens’s conviction.

The law has an odd history. It was enacted in large part to address what a House report called “a very specific sexual fetish.” There are people, it seems, who enjoy watching videos of small animals being crushed. “Much of the material featured women inflicting the torture with their bare feet or while wearing high-heeled shoes,” according to the report. “In some video depictions, the woman’s voice can be heard talking to the animals in a kind of dominatrix patter.”

When President Bill Clinton signed the bill, he expressed reservations prompted by the First Amendment and instructed the Justice Department to limit prosecutions to “wanton cruelty to animals designed to appeal to a prurient interest in sex.”

But the Justice Department in the Bush administration pursued at least three prosecutions for the sale of dogfighting videos.

There is little dispute that crush videos are profoundly disturbing. The two dogfighting videos Stevens was prosecuted for selling present a harder question.

There was conflicting testimony at Stevens’s trial about the nature and social worth of the videos. Defense experts said the films had educational and historical value, noting that much of the footage came from Japan, where dogfighting is legal. A veterinarian who testified for the prosecution disputed that and said the videos depicted terrible suffering, including scenes of dogs that were “bitten, ripped, and torn” and “screaming in pain.”

There is certainly biting in the dogfighting videos, but the fights are not bloody. In their Supreme Court brief, Stevens’s lawyers denied that any of the dogs in the videos were “ripped and torn,” and they counted “at most, 25 seconds containing yelps” in the more than two hours of footage on the tapes.

The third video at issue in the case, “Catch Dogs and Country Living,” shows pit bulls being trained to attack hogs and then hunting wild boar. The encounters are gory and brutal. Stevens participated in the hunting and filmed parts of the third video, which bears some resemblance to nature documentaries.

The law applies to audio and video recordings of “conduct in which a living animal is intentionally maimed, mutilated, tortured, wounded, or killed.” It does not matter whether the conduct was legal when and where it occurred so long as it would have been illegal where the recording was sold.

That means it may be a crime for an American to sell a video of a bullfight that took place in Spain, where bullfighting is legal. And because all hunting is illegal in Washington, a literal reading of the statute would make the sale of hunting videos illegal here. The law contains an exception for materials with “serious religious, political, scientific, educational, journalistic, historical, or artistic value.”

That exception may well protect journalism, scholarship, and animal rights advocacy about subjects like factory farming, pharmaceutical testing, circuses, and the slaughter of baby seals. But the determination of whether particular materials have “serious value” is, in the first instance at least, made by prosecutors.

News organizations, including the *New York Times*, filed a brief supporting Stevens. The 1999 law, the brief said, “imperils the media’s ability to report on issues related to animals.”

In a brief supporting the government, the Humane Society of the United States said that “gruesome depictions of animal mutilation targeted” by the law “simply do not merit the dignity of full First Amendment protection.”

When federal agents raided Stevens’s home in rural Virginia in 2003, he had no idea, his lawyers and family say, that he was breaking the law. But there are hints in the videotapes that Stevens at least knew that people participating in dogfighting in the United States were doing something illegal.

“Because I’m not going to show any participants or spectators, I have to cut a lot of it,” Stevens, who has a folksy manner and looks a little like the actor Bill Murray, said on one of the videos. “I only show certain action clips I think you’ll enjoy.” Stevens did not try to hide the identities

of those involved in the Japanese dogfights or in the video of dogs attacking hogs.

There is a crucial difference, Stevens’s lawyers told the Supreme Court, between illegal conduct and depictions of that conduct.

“While acts of animal cruelty have long been outlawed,” the brief for Stevens said, “there have never been any laws against speech depicting the killing or wounding of animals from the time of the First Amendment’s adoption through the intervening two centuries.”

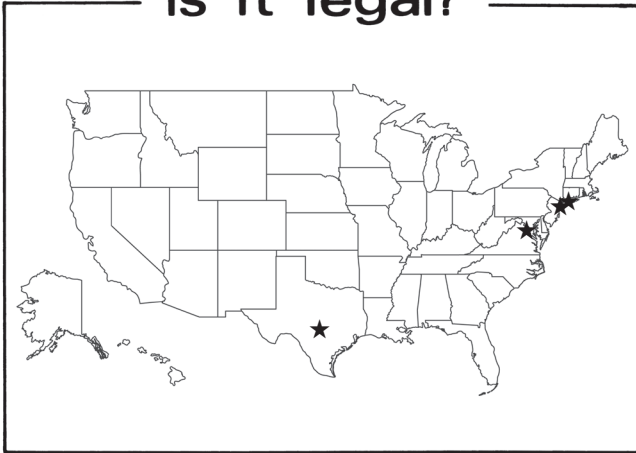
State and local governments occasionally try to ban depictions of violence against people, notably in videogames. But those laws are routinely struck down, and the Supreme Court has never ruled that speech about nonsexual violence is beyond the protection of the First Amendment.

Stevens’s sentence was 14 months longer, the brief noted, than that of Michael Vick, the football star who actually participated in a dogfighting venture.

Stevens’s son, Michael, said his father was guilty of nothing more than a longtime fascination with the affection, loyalty, and passion of pit bulls. “You couldn’t treat a dog any better,” the younger Stevens said, “than my father treats pit bull dogs.” Reported in: *New York Times*, September 19. □

**SUPPORT
THE FREEDOM
TO READ**

is it legal?



Internet

Washington, D.C.

The Web sites we visit, the online links we click, the search queries we conduct, the products we put in virtual shopping carts, the personal details we reveal on social networking pages—all of this can give companies insight into what Internet ads we might be interested in seeing.

But privacy watchdogs warn that too many people have no idea that Internet marketers are tracking their online habits and then mining that data to serve up targeted pitches—a practice known as behavioral advertising.

So Congress could be stepping in. Rep. Rick Boucher (D-VA), chair of the House Energy and Commerce Subcommittee on Communications, Technology, and the Internet, is drafting a bill that would impose broad new rules on Web sites and advertisers. His goal: to ensure that consumers know what information is being collected about them on the Web and how it is being used, and to give them control over that information.

While Congress has waded into Internet privacy issues before, this measure could break new ground, as the first major attempt to regulate a nascent but fast-growing industry that represents the future of advertising. Boucher insists his bill will benefit consumers and preserve the underlying economics of the Internet, which relies on advertising to keep so much online content free.

“Our goal is not to hinder online advertising,” he said. “This will make people more likely to trust electronic commerce and the Internet.”

Although his proposal is still taking shape, Boucher is confident lawmakers will pass an online marketing privacy law of some sort. He is working with Cliff Stearns of Florida, the top Republican on the Internet subcommittee, as well as Rep. Bobby Rush (D-IL), who chairs a separate subcommittee on consumer protection.

Already, Washington’s interest in Internet marketing has put online advertisers on notice. In July, the industry released a set of self-regulatory principles in an effort to head off concerns in Congress and the Federal Trade Commission. The FTC put out Internet ad guidelines early this year.

Boucher’s efforts have encouraged privacy activists, who point out that Internet surveillance has evolved beyond just data-tracking files, known as cookies, that Web sites place on visitors’ computers. Technologies such as “deep packet inspection” can now monitor a user’s every online move.

“Consumers have no idea that they are being followed online and that their information is being compiled into invisible digital dossiers,” said Jeffrey Chester, executive director of the Center for Digital Democracy, one of ten privacy groups that recently issued recommendations for lawmakers. “There is an incredibly sophisticated, ever-advancing system for profiling online users.”

Chester believes several developments have put the issue on Washington’s radar. Those include the rise of social networking sites that capture detailed personal information, like Facebook and MySpace; Google Inc.’s acquisition of the Internet ad service DoubleClick Inc.; and the proposed Internet search partnership between Microsoft Corp. and Yahoo Inc., now under review by the Justice Department.

“Online privacy has finally taken off and become a serious political issue,” Chester said. “A perfect digital storm has created momentum toward action.”

The challenge facing Washington, said Federal Trade Commission Chairman Jon Leibowitz, is to strike the right balance between “protecting the fundamental rights of consumers” and preserving “business equilibrium.”

Boucher’s bill will seek a middle ground in a long-running debate over what the default assumptions should be when companies monitor consumers’ online interests.

On one side, privacy watchdogs say Web sites should be required to obtain user permission—that is, people would “opt in”—before collecting most data.

On the other side, Web sites and advertisers insist such a mandate would overwhelm consumers with privacy notices. The companies argue that it is more practical to simply allow people who do not want to be tracked to “opt out” of data collection.

Boucher expects to set different rules for different types of sites. Sites that collect visitor information in order to target advertising on their own pages, for instance, would have to offer consumers a chance to opt out of having their interests tracked. These sites would also be required to prominently disclose what information they collect and provide a

detailed description of how that information is used.

Web sites that deal with sensitive personal information, such as medical and financial data, sexual orientation, Social Security numbers and other ID numbers, would have to ask users to opt in to being tracked.

Boucher's bill would not be the first significant online privacy law. In 1986, Congress passed the Electronic Communications Privacy Act, which placed privacy obligations on companies and organizations that offer e-mail services. The Children's Online Privacy Protection Act of 1998 requires commercial Web sites targeted at children under age 13 to obtain parental consent before collecting personally identifiable information.

But the current bill would mark the first significant attempt by Congress to regulate Internet advertising. Marc Rotenberg, executive director of the Electronic Privacy Information Center, said there had been little need for Congress to impose privacy protections on advertisers offline, since traditional media such as TV, radio, and newspapers don't enable marketers to profile individual consumers as easily as the Internet does. Now, Rotenberg said, "privacy laws should be updated to reflect new business practices."

It's too soon to know whether Boucher's final bill will go far enough to satisfy privacy activists. But they agree that a law would do much more than the self-regulatory principles released by the Interactive Advertising Bureau (IAB), the Association of National Advertisers (ANA), and three other advertising trade groups in July.

Among other things, those principles call for consumer education efforts and disclosure of behavioral advertising practices.

ANA Executive Vice President Dan Jaffe said self-regulation is the best approach for managing an industry evolving as quickly as online advertising. "Legislation would be too rigid because this is a moving target," Jaffe said.

Mike Zaneis, IAB's vice president of public policy, added that self-regulation is effective since it is in advertisers' interest to make sure consumers trust them. "At the end of the day, the most important asset any online company has is a strong relationship with the consumer," he said.

Yet that's also why Chester insists that tougher rules from Congress would not cripple online advertising. Consumers might be more likely to favor Web sites that allow them to see and influence their personal data.

"It's about treating consumers with respect," said Joseph Turow, a professor at the University of Pennsylvania's Annenberg School for Communication. "Companies keep saying they want to engage users. That means opening up and not sneaking behind someone's back to draw up pictures of them. We need information reciprocity."

Turow added that while he supports opt-in mandates as "the ultimate form of respect," the debate over opt-in versus opt-out rules won't matter "when people really have an opportunity to interact with their data."

For now, privacy activists are pinning their hopes on

lawmakers. Evan Hendricks, editor of the *Privacy Times* newsletter, believes Boucher's bill will find bipartisan support in Congress.

"This stands a very realistic chance of passage," he said. "Privacy is the kind of issue you can't be against." Reported in: Associated Press, September 7.

Syosset, New York

Parents who install a leading brand of software to monitor their children's online activities may be unwittingly allowing the company to read their children's chat messages—and sell the marketing data gathered.

Software sold under the Sentry and FamilySafe brands can read private chats conducted through Yahoo, MSN, AOL and other services, and send back data on what kids are saying about such things as movies, music or video games. The information is then offered to businesses seeking ways to tailor their marketing messages to kids.

"This scares me more than anything I have seen using monitoring technology," said Parry Aftab, a child-safety advocate. "You don't put children's personal information at risk."

The company that sells the software insists it is not putting kids' information at risk, since the program does not record children's names or addresses. But the software knows how old they are because parents customize its features to be more or less permissive, depending on age.

Five other makers of parental-control software contacted by The Associated Press, including McAfee Inc. and Symantec Corp., said they do not sell chat data to advertisers.

One competitor, CyberPatrol LLC, said it would never consider such an arrangement. "That's pretty much confidential information," said Barbara Rose, the company's vice president of marketing. "As a parent, I would have a problem with them targeting youngsters."

The software brands in question are developed by EchoMetrix Inc., a company based in Syosset, N.Y.

In June, EchoMetrix unveiled a separate data-mining service called Pulse that taps into the data gathered by Sentry software to give businesses a glimpse of youth chatter online. While other services read publicly available teen chatter, Pulse also can read private chats. It gathers information from instant messages, blogs, social networking sites, forums, and chat rooms.

EchoMetrix CEO Jeff Greene said the company complies with U.S. privacy laws and does not collect any identifiable information. "We never know the name of the kid—it's bobby37 on the house computer," Greene said.

What Pulse will reveal is how "bobby37" and other teens feel about upcoming movies, computer games, or clothing trends. Such information can help advertisers craft their marketing messages as buzz builds about a product.

Days before *Harry Potter and the Half-Blood Prince* opened in theaters on July 15, teen chatter about the movie

spiked across the Internet with largely positive reactions. “Cool” popped up as one of the most heavily used words in teen chats, blogs, forums, and on Twitter. The upbeat comments gathered by Pulse foreshadowed a strong opening for the Warner Bros. film.

Parents who don’t want the company to share their child’s information to businesses can check a box to opt out. But that option can be found only by visiting the company’s Web site, accessible through a control panel that appears after the program has been installed. It was not in the agreement contained in the Sentry Total Home Protection program.

According to the agreement, the software passes along data to “trusted partners.” Confidentiality agreements prohibit those clients from sharing the information with others.

In recognition of federal privacy laws that restrict the collection of data on kids under 13, the agreement states that the company has “a parent’s permission to share the information if the user is a child under age 13.”

Tech site CNet ranks the EchoMetrix software as one of the three best for parental control. The Sentry and FamilySafe brands include parental-control software such as Sentry Total Family Protection, Sentry Basic, Sentry Lite and FamilySafe (SentryPC is made by a different company and has no ties with EchoMetrix).

The Lite version is free. Others range from \$20 to download and \$10 a year for monitoring, to about \$48 a year, divided into monthly payments. The same company also offers software under the brands of partner entities, such as AmberWatch Lookout.

AmberWatch Foundation, a child-protection nonprofit group that licenses its brand to EchoMetrix, said information gathered through the AmberWatch-branded software is not shared with advertisers.

Practically speaking, few people ever read the fine print before they click on a button to agree to the licensing agreement. “Unless it’s upfront in neon letters, parents don’t know,” Aftab said.

EchoMetrix, formerly known as SearchHelp, said companies that have tested the chat data using Pulse include News Corp.’s Fox Broadcasting, and Dreamworks SKG Inc. Viacom Inc.’s Paramount Pictures recently signed on.

EchoMetrix has been losing money. Its liabilities exceeded its assets by nearly \$25 million as of June 30, according to a regulatory filing that said there is “substantial doubt about the company’s ability to continue as a going concern.”

To get the marketing data, companies put in keywords, such as the name of a new product, and specify a date range, into Pulse. They get a “word cloud” display of the most commonly used words, as well as snippets of actual chats. Pulse can slice data by age groups, region, and even the instant-messaging program used.

Pulse also tracked buzz for Microsoft Corp.’s “Natal,” a forthcoming Xbox motion-sensor device that replaces the traditional button-based controller. Microsoft is not a client

of Pulse, but EchoMetrix used “Natal” to illustrate how its data can benefit marketers.

Greene said children’s conversations about Natal were focused on its price and availability, which suggested that Microsoft should assure teens that there will be enough stock and that ordering ahead can lock in a price.

Competing data-mining companies such as J.D. Power Web Intelligence, a unit of quality ratings firm J.D. Power and Associates, also trolls the Internet for consumer chats. But Vice President Chase Parker said the company does not read any data that’s password-protected, such as the instant message sessions that EchoMetrix collects for advertisers.

Suresh Vittal, principal analyst at Forrester Research, said EchoMetrix might have to make its disclosures more apparent to parents.

“Are we in the safeguarding-the-children business or are we in the business of selling data to other people?” he said. If it’s the latter, “it should all be done transparently and with the knowledge of the customer.” Reported in: Associated Press, September 4.

Richmond, Virginia

The state of Virginia has backed away from attempts to force Facebook to divulge the complete contents of a user’s account to settle a dispute over workers’ compensation, narrowly avoiding what promised to be a high-profile privacy battle in federal court.

On September 14, the Virginia’s Workers Compensation Commission said it was no longer going to levy a \$200-a-day fine on the social-networking site for refusing to comply with a subpoena from an airline that previously employed a flight attendant named Shana Hensley. Facebook had objected to the June 4 subpoena from Colgan Air—the Manassas, Virginia-based company that operates under the names United Express, US Airways Express, and Continental Connection—on privacy grounds. It said federal law prohibits divulging user data in response to a subpoena and promised to “further litigate this issue by seeking, among other things, an injunction from the federal courts.”

In principle, this isn’t a novel concept: employers and insurance companies have long used private investigators to ferret out fraud and show that someone who claims to be a virtual cripple actually participates in waterskiing competitions.

Because social-networking sites offer such information-rich glimpses into a person’s private life, insurers and employers have begun eyeing them. A personal injury lawyer in Elmira, N.Y., noted in July that an accident victim claiming to be severely injured was, thanks to Facebook, revealed to be playing in soccer games. An article in *Business Insurance* said that social-networking sites revealed exaggerated claims of injuries from a judo instructor, a bowler, and a rodeo bronco rider.

In the Colgan Air case, Facebook said it’s happy that

privacy rights prevailed. “We’re pleased with the outcome and that our users’ information will be protected,” said Facebook spokesman Barry Schnitt.

Colgan Air, which is owned by the publicly traded Pinnacle Airlines, initially paid Hensley’s disability benefits that were related to a back injury while on the job (she was diagnosed with a herniated disc and did not want surgery). After about 18 months, however, Colgan Air claimed that Hensley was not cooperating with its efforts to find her a desk job and appears to have concluded that Hensley’s holiday vacation photos posted on her Facebook account would demonstrate that any back problems were not severe.

The airline’s June 4 subpoena from Virginia attorney Charles Midkiff demanded “all documents, electronic or otherwise, related directly or indirectly, to all activities, writings, photos, comments, e-mails, and/or postings” on Hensley’s Facebook account.

Six days later, Facebook responded, saying that the request must come from a California court, and that it was “overly broad” because the federal Electronic Communications Privacy Act (ECPA) protects the privacy of user accounts. Midkiff, the airline’s lawyer, replied by requesting a “contempt citation against Facebook” from the Virginia’s Workers Compensation Commission.

Randolph Tabb, a deputy worker’s compensation commissioner, granted it. On August 28, Tabb held Facebook in contempt for “a failure to comply” and ordered a \$200-a-day fine “until such time as compliance is satisfied by the production of said documentation.”

Facebook’s response to Tabb said that “users such as Ms. Hensley rely on Facebook to protect their data and vigorously enforce the privacy decisions they make on Facebook.” It adds: “Courts have interpreted the ECPA to prohibit services such as Facebook from producing a non-consenting subscriber’s communications even when those communications are sought pursuant to a court order or subpoena.”

Put another way: unless you change your mind, we’ll see you in federal court.

It worked. Tabb backed down, reversing his previous ruling and fine, and claimed that Facebook should have made the full scope of its objections clear earlier.

James Szablewicz, Virginia’s chief deputy worker’s compensation commissioner, said that he didn’t know of any other case involving Facebook that his colleagues have faced. “I think it’s a pretty good chance that this is a case of first impression for us,” he said.

Privacy advocates applauded the decision, likening it to Google’s mostly successful effort to fend off a subpoena from the Justice Department three years ago. Jim Dempsey, a vice president of the Center for Democracy and Technology, said: “Too often, lawyers in civil cases are turning to service providers like Facebook, AOL, and Google with fishing requests. The law is clear—service providers cannot turn over content in civil cases.”

Kevin Bankston, a senior staff attorney at the Electronic

Frontier Foundation, said the principles are similar to the one involving Apple Computer’s efforts to unmask product leakers (the case is *O’Grady v. Superior Court*). “We were very glad to see that the rule of law we helped to establish in the O’Grady case is being used to ensure that Facebook content is not disclosed in violation of federal privacy statutes.”

There’s an ironic ending to this story. Julie Heiden, a Virginia personal injury lawyer representing the former flight attendant, Shana Hensley, said that the subpoena won’t be necessary after all. “We agreed to sign a release,” Heiden said, meaning a document that authorizes Facebook to disclose the contents of Hensley’s account to her former employer. “Shana has executed the release. . . . She has nothing to hide.” Reported in: Cnet news, September 14.

freedom to travel

New York New York

Prestigious German publisher and former student activist Karl-Dietrich Wolff has been denied entry to the US. He was due to speak at Vassar College about African American civil rights and 20th century Germany.

The 66-year-old Wolff, former head of the Socialist German Students’ Organisation (SDS), founder of Germany’s Black Panther Solidarity Committee in 1969, and founder of German publisher Stroemfeld, was refused entry at JFK airport in New York in late September.

“They filtered me out of the line right away,” said Wolff. “They had a print-out which had my picture from my visa [saying] in big spelling ‘revoked, revoked, revoked’. They told me I was trying to enter the country with an invalid visa.”

He had been invited to speak at the academic conference at Vassar College because he took part in the beginning of the civil rights movement as a high school exchange student in the US in the early 1960s and founded the Black Panther Solidarity Committee. “He could thus share his biographical experience with the international academic community assembled at the conference, which features, among others, such prominent speakers as Angela Davis,” said the organizers of the conference, Vassar president Dr. Catharine Hill and German Historical Institute director Dr. Hartmut Berghoff.

They issued a statement expressing their disappointment at the denial of entry and their hope that its circumstances would “be clarified promptly by the appropriate authorities”.

Wolff said he had understood his visa was valid until November 2010, but was told it had been revoked in 2003. “They questioned me for six hours and fingerprinted me and photographed me and put me on the last plane back to Frankfurt,” he said.

He had been barred from visiting the US between 1969 and 1987 after he was subpoenaed to the Senate Committee

on Internal Security and told Senator Strom Thurmond that he and “his like” were “just a bunch of criminal bandits.” “No one ever told him that to his face, and after that I had no American visa for 18 years,” said Wolff.

According to the book *Americanization and Anti-Americanism*, the hearing saw Wolff “indict America’s ruling class as a reincarnation of the Nazis: as the Jewish people in Germany, blacks were deprived in the United States of their language and culture”. “This is not only a private opinion of mine,” Wolff lectured. “I’m here to represent all mankind.”

But since the bar was lifted in 1987 he has been back “more than three times” to the US, he said. He was not told why he was denied entry now, and said he would be talking to lawyers about the issue, as well as to the American ambassador in Germany.

“The university is trying to get some video conferencing going so I can speak at the conference after all,” he said. “But I will not go back to the US before I get a letter of apology Everyone who knows me knows I am one of the relatively few leftist leaders in West Germany who is really pro-America It’s really very strange, the whole thing.”

Larry Siems, director of the Freedom to Write program at PEN America, called the denial of entry “pretty disturbing and embarrassing”. He said PEN America would be talking to its lawyers about the issue. “The timing of the cancellation of the visa in 2003. . . suggests they went through an old list of the usual suspects and cancelled visas wholesale,” said Siems, adding that other PEN members including Haluk Gerger, had experienced similar things.

“We have been working hard to challenge the resurgence of ideological exclusion in the US since 9/11, which we consider to be a violation of the right to freedom of expression and of the right of Americans to meet with and engage with our foreign colleagues,” he said.

The German branch of PEN—of which Wolff is a member—said the move was “outrageous and must be interpreted as a curtailment of human rights.” Reported in: *The Guardian*, September 29.

(lawmakers yield . . . from page 193)

driver who the authorities said had handwritten notes on how to build bombs.

Democratic senators Benjamin Cardin (Maryland), Sheldon Whitehouse (Rhode Island) and Edward Kaufman (Delaware), also had their names attached to the Leahy-Feinstein amendment.

Sen. Russ Feingold (D-WI) was not so sure of the amendment, although the panel unanimously adopted it for consideration.

“We must not continue to kick this can down the road.

The rights and freedoms of Americans are at stake,” he said. The government’s Section 215 power is riddled with “rampant misuse and abuse,” he said, but would not elaborate because the information was classified.

An amendment by Sen. Richard Durbin (D-Illinois) to repeal the Leahy-Feinstein amendment was swiftly defeated on a 4-15 vote.

“[Section] 215 orders without any connection to a suspected terrorist or spy could lead obviously to a government fishing expedition,” Durbin argued.

Sen. Jeff Sessions (R-AL) countered that Durbin’s amendment is unworthy of consideration. “I think it will impact the operation of what we are doing,” he said. Feinstein added: “I think Senator Sessions is correct.”

He said the FBI does not support Durbin’s proposal. “It would end several classified and critical investigations,” she said.

A saving grace to the Leahy-Feinstein amendment was a provision that library records are subject to a higher standard, that they must be relevant to a terror investigation to be subject to a Section 215 warrant.

The government reported that as many as 220 warrants under Section 215 had been authorized since 2004. The government has also said there’s a classified government operation that relies on those orders.

While the bulk of the hearing surrounded Section 215, two other expiring provisions received scant attention.

One is the so-called “lone-wolf” measure that allows FISA court warrants for the electronic monitoring of a person even without showing that the suspect is an agent of a foreign power or a terrorist. The government has said it has never invoked that provision, but said it wants to keep the authority to do so.

The other expiring measure is the so-called “roving wiretap” provision. It allows the FBI to obtain wiretaps without identifying the target or what method of communication is to be tapped. The FISA court grants about 22 such warrants annually.

“It has been suggested that roving wiretaps can be used against anyone. The roving wiretap authority can only be used after a court order has been obtained with probable cause that the target is an agent of a foreign power,” Feinstein said. “There are no known abuses of this authority.”

The Leahy-Feinstein plan also requires publication of audits, including how many times the government has used the PATRIOT Act’s provisions, including the number of targets. Much of the government’s public reporting on the topic has been voluntary, and very little is known about how often each power has been used and why.

Feingold, meanwhile, was likely to introduce two more amendments to the package, he said. One concerns limiting the government’s power to issue so-called National Security Letters. The letters allow the FBI, without a court order, to obtain telecommunication, financial and credit records relevant to a government investigation. The FBI

issues about 50,000 of them annually and an internal watchdog has repeatedly found abuses of the powers. The new standard would authorize those records if the investigation concerned terrorism or spy activities.

A 2007 Inspector General Report showed that the FBI circumvented that law to acquire access to records that weren't relevant to any authorized FBI investigation.

The other Feingold amendment focuses on withdrawal of telecom immunity legislation. That legislation, signed by President George W. Bush and backed by then Sen. Barack Obama, killed federal lawsuits claiming the telcos illegally assisted the Bush administration in funneling Americans' electronic communications to the National Security Agency without warrants.

The American Civil Liberties Union said Leahy and Feinstein had offered a "watered-down" version.

"The bill, as it stands now, falls far short of including civil liberties protections shown to be necessary by the results of oversight and audits of the Patriot Act that have been made public to date," said Michael Macleod-Ball, the acting director of the ACLU's legislative office in Washington.

Earlier in the month the Obama administration called on Congress to reauthorize the three expiring PATRIOT Act provisions. In a letter to lawmakers, Justice Department officials said the administration supports extending the three expiring provisions of the law, although they are willing to consider additional privacy protections as long as they don't weaken the effectiveness of the law.

Assistant Attorney General Ronald Weich wrote Sen. Patrick Leahy, the chairman of the Senate Judiciary Committee, that the administration is willing to consider stronger civil rights protections in the new law "provided that they do not undermine the effectiveness of these important (provisions)."

Leahy responded with a statement saying it is important for the administration and Congress to "work together to ensure that we protect both our national security and our civil liberties."

"We are aware that members of Congress may propose modifications to provide additional protection for the privacy of law-abiding Americans," Weich wrote, adding that "the administration is willing to consider such ideas, provided that they do not undermine the effectiveness of these important authorities."

Michelle Richardson of the American Civil Liberties Union called the administration's position "a mixed bag" and said that the group hopes the next version of the PATRIOT Act will have important safeguards on other issues, particularly the collecting of international communications, and a specific bar on surveillance of protected First Amendment activities like peaceful protests or religious assembly.

"We're heartened they're saying they're willing to work with Congress," Richardson said, adding that is "definitely a sea change from what we've seen in the past."

One of the witnesses Democrats invited to testify at both hearings is Suzanne E. Spaulding, who has worked for lawmakers of both parties as a former top staffer on the House and Senate Intelligence committees. Spaulding urged Congress to tighten restrictions on when the F.B.I. could use the PATRIOT Act powers.

The rapid build-up of domestic intelligence authorities after the September 11 attacks, she said, had overlooked "important safeguards," which has resulted "in a greater likelihood at a minimum of the government mistakenly intruding into the privacy of innocent Americans, and at worst having a greater capability of abusing these authorities."

Still, she acknowledged, the public record contains scant evidence that the F.B.I. has abused its powers under the three expiring sections. And it remains to be seen whether a majority in Congress will welcome undertaking a potentially heated debate over national security in the midst of already wrenching efforts to overhaul the nation's health insurance system.

Republicans invited Kenneth L. Wainstein, a former assistant attorney general for national security for the Bush administration, to testify.

"We have to be careful not to limit these tools to the point that they are no longer useful in fast-moving threat investigations," Wainstein said. "There is an important place for oversight of national security tools, and that oversight is being exercised by Congress and by the federal judges on the Foreign Intelligence Surveillance Court."

The first such provision allows investigators to get "roving wiretap" court orders authorizing them to follow a target who switches phone numbers or phone companies, rather than having to apply for a new warrant each time. From 2004 to 2009, the Federal Bureau of Investigation applied for such an order about 140 times, Robert S. Mueller, the F.B.I. director, said at a Senate Judiciary Committee hearing.

The second such provision allows the F.B.I. to get a court order to seize "any tangible things" deemed relevant to a terrorism investigation—like a business's customer records, a diary, or a computer. From 2004 to 2009, the bureau used that authority more than 250 times, Mueller said.

The final provision set to expire is called the "lone wolf" provision. It allows the F.B.I. to get a court order to wiretap a terrorism suspect who is not connected to any foreign terrorist group or foreign government. Mueller said this authority had never been used, but the bureau still wanted Congress to extend it.

"Every single member of Congress wants to give our law enforcement and intelligence officials the tools they need to keep Americans safe," Feingold said in a statement when filing the bill. "But with the PATRIOT Act up for reauthorization, we should take this opportunity to fix the flaws in our surveillance laws once and for all." Reported in: *wired.com*, October 1; *New York Times*, September 20; *Huffington Post*, September 15. □

success stories



libraries

Effingham, Illinois

The Effingham Helen Matthes Library Board was united in its stance against censorship August 17 when it unanimously agreed to deny a request to remove a book from the teen section. Board members were adamant against censoring what books the public had access to, indicating it was up to parents and other patrons to preview materials prior to reading to decide if the book met individual tastes or value systems.

Amy and Brad Hibdon and their five children all use the library, but the Hibdons became concerned about a book in the teen section of the library after they read it because their 15-year-old daughter had checked it out and seemed upset by the content.

The book, *Living Dead Girl*, by Elizabeth Scott, is about a 15-year-old's perspective of living with her captor after being forcibly kidnapped and imprisoned at the age of ten. The book has received several accolades from book critics.

The Hibdons formally requested the book be removed from the library or at least the teen section because of its graphic content and the unsatisfactory ending. The main character is murdered at the end of the book. Hibdon claimed the sexual abuse the character is subjected to in the book is too graphic for young teens.

"It appalls me [that] my daughter read this," said Amy Hibdon. "It's a book about forced kidnapping, forced imprisonment. . . . A book on severe abuse should be how to get out of the situation . . . but this book shows the girl had a chance to get out and didn't."

Hibdon said the book was written for adults and the author intended it for readers who were age 16 or older. "I don't think any teen or adult should read this book," Hibdon said. "There is no good coming out of this book." Hibdon said her daughter would not talk about the book other than to say she keeps trying to come up with a new ending.

Library Director Jeannie May said she agrees the book takes on a painful topic, but she doesn't believe that is reason enough to remove the book from the library. "We have a responsibility to serve all taxpayers," she said. "We believe parents know what is best for their children and it is their job to review the materials they are reading."

May told the board any decision made would set a precedent for the future.

This was the first formal censorship request that has reached this point in the past eight years, according to May, who spoke with former Director Amanda Standerfer, who was in charge of the library during that timeframe. Standerfer said there had been a couple of challenges to books, but when persons making those challenges were asked to fill out a formal complaint, they were dropped.

Board members understood the concern of the Hibdons as parents, but they also were united in their stance against censorship. "I understand where they are coming from, but I'm adamantly against banning the book" said board member Rod Wiethop.

May told the board it could decide to leave the book on the shelf as it is, remove the book altogether or move the book from the teen section to the adult section.

Teen librarian Shirley Marshall told May removing the book could start a trend because the middle teens is when young adults begin exploring dark things as an outlet. That is why the *Twilight* series, which revolves around vampires, is so popular. If the requested book is removed from the shelf, how long before someone asks that these other type of "dark" books be removed. questioned Marshall

Board member John Latta said that although the subject of *Living Dead Girl* is difficult, it also is something that actually happens in society and having access to that reality may not necessarily be a bad thing. He added that the book's point about the character having the chance to get out of the situation and not taking it illustrates a harsh reality that occurs in those type of abusive situations.

"I'm opposed to censorship," he said. "It is up to the parents to censor the material they are reading, not the library." Wiethop added he would not want his 12- or 13-year-old daughter reading this book, but it is up to families to make those type of decisions.

When questioned about the graphic scenes in the book, May told the board she found the physical abuse to be more graphic than the sexual abuse, although this type of material is often hard to read.

Board member Racheal Fearday asked if it would be possible to limit access to the book to those who were age 16 or older. May said the library does not enforce age limits when it comes to checking out materials. Instead, those

regulations are left to parents of patrons. May also told the board four other Rolling Prairie libraries had the book in the teen or young adult section.

“While you might not like something, censoring is a whole different matter,” said board President Bob Willenborg. Reported in: *Effingham Daily News*, August 18.

prisons

Charlottesville, Virginia

Virginia prison inmates will once again be able to receive free Bibles, dictionaries, and other books from a nonprofit group, after state prison officials reversed a recent decision to ban the popular Books Behind Bars program.

The twenty-year-old effort, run by the Quest Institute in Charlottesville, was halted in August after prison officials said that security risks were too great and that the influx of books created too much work for busy corrections officers. But after protests from supporters, Corrections Department Director Gene M. Johnson said he will allow Books Behind Bars—which has put as many as a million books in prison cells statewide—to resume. In a September 15 letter to Kay Allison, the program’s founder, Johnson said each inmate could request up to three books a month.

“At this time it is my intention to restore the opportunity for inmates to request three free books per month through the Quest Institute while strengthening our procedures for

the introduction of materials into [Corrections Department] facilities,” Johnson wrote.

Community members, lawmakers and others came forward to support the program, Allison said. “I’m ecstatic,” she added. “This is a victory for the inmates.”

Prison officials decided to stop the program after contraband made its way into prisons in books provided by Quest. State officials would not provide details, citing security issues. But they said they worried that someone trying to smuggle an item to an inmate could use Books Behind Bars to do it.

Allison said volunteers who help sort and search books before they are sent to inmates overlooked a paper clip and a CD packaged in a textbook. She said that both items were found by corrections officers and that neither made it into the hands of an inmate.

In the letter, Johnson wrote that “introduction of contraband of any kind into any correctional setting is a very serious matter. I trust there will be no problem with such an occurrence happening again regarding materials distributed by the Quest Institute.”

Allison said volunteers will take extra care to inspect each book.

Inmates write to Quest, asking for specific titles or topics. Dictionaries, Bibles, and the Koran are the most frequent requests. African American literature, self-help books, and novels are also popular. Reported in: *Washington Post*, September 17. □

**SUPPORT
THE FREEDOM
TO READ**

(“librarians shushed no more” . . . from page 195)

mation was “relevant” to the crime committed that was related to a terrorism investigation.

- The FBI was authorized to use a special search warrant from a FISA court, whose proceedings were closed to the public.
- The FBI was authorized to use these special search warrants to retrieve library circulation records, or usage records from library computers, of someone being investigated by the government.
- The PATRIOT Act overrides existing state library privacy laws.
- The PATRIOT Act prohibits the library from notifying the press, the patron under suspicion, or most other people that an investigation is underway. (The reauthorization act now allows librarians to notify their immediate supervisor and the library’s legal counsel.) This provision is known as the “gag order.”
- In some cases, the FBI is allowed to take records related to Internet usage without a warrant.

These activities and policies conflict with existing ALA professional ethics in a number of ways, but most importantly with the protection of user privacy, which will be discussed later in this paper.

National Security Letters and the FISA Courts

National Security Letters (NSL’s) are the communications from the FBI to anyone suspected of violating the USA PATRIOT Act. These letters are requested by FISA courts—secret courts authorized in the United States Foreign Intelligence Act of 1978. These court proceedings and records are closed to the public. If the US Attorney General (a member of the President’s Cabinet) determines that a national security emergency exists, he/she may authorize wiretapping or other surveillance before obtaining authorization from a judge. The judge must be notified within 72 hours.

US libraries sometimes had received court-ordered warrants or subpoenas before. But always before the USA PATRIOT Act, the court needed to show “probable cause.” For example, let’s say that a local sheriff came to a college library and asked to see what books a murder suspect had checked out. Perhaps the suspect had performed a series of murders in a particular way. Maybe he had left a puzzle at the murder scene. IF, and only IF, the local police had “probable cause” to believe that the key to the murders lay within the books he had checked out, could the library release the circulation records to the police. Otherwise, all fifty states of the United States have privacy laws that prohibit a library from revealing what books a patron has checked out or consulted.

A National Security Letter does not require “probable cause.” So, if the Attorney General suspects a particular person, he or she can get a National Security Letter demanding that an organization like a library must hand over whatever records are demanded—without a judge ruling that there is strong reason to believe that the library records will reveal important information to solve the murder.

What Happened to the Library Connection: The Story Continues

So how did all this relate to George Christian in Connecticut when he received the National Security Letter in July of 2005? Fortunately, George Christian is a librarian who takes his professional ethical responsibilities seriously. He was well aware of the American Library Association’s Code of Ethics. He was well aware of the principles of privacy and of intellectual freedom as expressed by the association in its *Intellectual Freedom Manual*. He found out that the New York State District Court had found the entire NSL statute unconstitutional. And so this courageous librarian decided that he had enough grounds to oppose the efforts of the FBI to collect information.

On July 13, 2005, two FBI agents delivered the letter to Mr. Christian. One of the agents pointed out that the letter requested information about the use of a specific IP address registered to Library Connection, Inc. In other words, the FBI wanted to know who was using a particular terminal for 45 minutes on February 15, 2005. Because of the network configuration, this meant that George Christian was requested to reveal the identity of every single user of every single computer terminal at one of the member libraries. The agent reminded Mr. Christian of the “gag order”—that he could not disclose to ANYONE that the FBI was trying to collect this information.

Mr. Christian did not want to impede the investigation of a possible terrorist activity that could endanger the US or employees of the Library Connection. But because he noticed that the letter was dated May 19—two months earlier—he concluded that this was not really an urgent matter. And so he told the FBI that he wanted to consult his attorney before complying with the request. The FBI agent gave a phone number where the attorney could contact him.

Then, Mr. Christian called the Library Connection attorney. It was then that Mr. Christian learned that the only way he could contest this request from the FBI was to take the US Attorney General to court!

He then went to his Executive Committee. He called an emergency session, which included the three librarians who would become the other three to form the “Connecticut Four.” They are: Barbara Bailey of the Glastonbury Public Library; Peter Chase of the Plainville Public Library; and Janet Nocek, Director of the Portland Public Library. (I want to note here that Janet had lost a friend in the 9/11 attacks, but she was able to separate her personal grief from the fact that the “gag order” in her mind violated the US

Constitution.) These are all small town libraries in the state of Connecticut. So this committee met with their attorney and decided to call on the American Civil Liberties Union (ACLU), often a partner with library associations in civil liberties issues like this one. The group decided not to comply with the FBI request and its gag rules. Their first strategy was to LIFT THE GAG ORDER. Why? First, they felt very uncomfortable not telling the member libraries what was going on because it was, after all, member library money funding the consortium. Second, they wanted to publicize the issue at a point when there was a national debate about the PATRIOT Act renewal. They suspected that Connecticut citizens would be very upset to learn that Connecticut state library privacy laws were being violated without the knowledge of the patrons using the library.

As George Christian testified to the US Senate: “As a law-abiding citizen and as a person committed to the principles of librarianship, it did not and does not make sense to me that such intrusions into the privacy of our library patrons is reasonable, especially a wholesale request for information about many patrons, not necessarily a library patron that is the legally deemed specific target of an investigation. Fishing expeditions should not be allowed in libraries . . .” I will discuss the importance of his professional ethical values later, but his awareness of them is significant.

And so a lawsuit was filed in Federal District Court in Bridgeport, CT. Because of the “gag order,” none of the four librarians involved were allowed to appear in court because their identities would be revealed. So they had to watch the proceedings on closed circuit TV. The gag order had also prevented these librarians from telling their families, their fellow staff members, or anyone else. You can only imagine the stress and concern this caused them. They also wanted to tell their Congressional representatives, who were about to vote on the reauthorization of the PATRIOT Act, parts of which were supposed to “sunset” in December 2005.

Although the judge ruled that they should not be gagged, the Justice Department appealed, and during the appeal they remained gagged. The son of one of the librarians asked, “Dad, is the FBI after you?” All he could say was that he

was involved in a court case and that it was extremely confidential.

Meanwhile—people in Connecticut and around the country began to hear about the case, but they had no idea who was involved. I remember hearing that a library consortium in my own state had challenged the US Attorney General in court over the USA PATRIOT Act. The consortium was known only as “John Doe,” and the case was *Doe v. Gonzalez* (then the Attorney General). So you can only imagine the speculation that was traveling all over Connecticut, and the librarians involved were gagged.

But, thanks to our relatively free press, the *New York Times* found a court document in which Library Connection’s name had not been redacted and so they published the story on September 21, 2005. Papers all over the US picked up the story. On November 6, 2005, the *Washington Post* ran the story on the front page and revealed the problems with the potential invasion of library patron privacy. They revealed that there had been 30,000 NSL’s issued per year since the USA PATRIOT Act.

And yet despite the accidental revelations, the Connecticut Four were still not allowed to speak to their Congressional representatives. They were advised to say, “No comment.”

The next court case was November 2005, at the New York 2nd Circuit Court of Appeals, which is the step right before the U.S. Supreme Court. At this point the Connecticut Four were allowed in the court, but had to enter, leave, and sit separately. They could not establish eye contact among themselves or their attorneys.

To me one of the most extraordinary arguments by the government attorneys was that the gag should still not be lifted, even if the names of the plaintiffs were named in the *New York Times*. They argued that nobody in Connecticut read that particular newspaper. Connecticut is adjacent to New York state, and a great percentage of its citizens work in New York City and read the *Times* on their way to work on the train every single day.

On March 9, 2006, President George W. Bush signed into law the revised Act. Soon after, the Connecticut Four were allowed to speak. A few weeks after that, the FBI

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said they no longer needed the information they had originally sought from the Library Connection computers and abandoned the case. In so doing, they removed the USA PATRIOT Act from court review.

George Christian told the Congressional Committee: “Since then, we have tried to accept every invitation to library groups, colleges and civic organizations. We want people to know that the FBI is spying on thousands of completely innocent Americans. We feel an obligation to the tens of thousands of others who received National Security Letters and now will live under a gag order for the rest of their lives . . . Because of the gag order, you, our Senators and elected representatives and the American public, are denied access to the stories and information about these abuses. This is information you need to conduct oversight, work for appropriate changes to current law and seek to protect our constitutional rights.”

What Librarians Can Learn From the Library Connection Case

I will now summarize what I believe librarians, at this session on ethics in the library workplace, can learn from this very important event (to date, no other librarians have challenged the USA PATRIOT Act in this way):

1. Librarians need to understand their country’s legal balance between the protection of freedom of expression and the protection of national security. Many librarians believe that the interests of national security, important as they are, have become an excuse for chilling the freedom to read.
2. Librarians need to understand what legal rights they have to promote the freedom of expression in libraries, and the rights their library patrons have to gain access to information. These rights should be documented in writing and held in a folder, easily accessible, for law enforcement officials who might visit the library asking about library circulation records or book purchasing policies. For example, in the US these would include the First Amendment of the US Constitution, each state’s library confidentiality law, and others.
3. National library associations need to develop a code of ethics. Many are written and can be found on the IFLA/FAIFE web site: www.ifla.org, click on FAIFE and then on “codes of ethics.” 34 countries have published their codes of ethics there. Your country’s code should include the freedom to access information of any kind, and the right of librarians to provide such access. The code should also protect patron privacy, so that no government official can find out what a particular person has been reading or accessing on the Internet.

Examples:

- Czech Republic: “respect the rights of users to privacy and anonymity . . . protect user personal data . . .”
 - Indonesia: “Every Indonesian librarian should respect the secrecy of the information of personal character.”
 - Jamaica: “The librarian should respect the confidentiality of any information revealed by the user in the course of research.”
 - The American Library Association has begun a campaign for user privacy, cosponsored by the Soros Open Society Institute. You can find tool kits, press information, and other assistance at : <http://www.privacyrevolution.org>
4. Libraries should have a pamphlet about what staff should do if a government official visits the library and wants information on a particular patron. All staff should be trained. In many, many countries, library staff have rights in such a situation. Your national library association can assist you in knowing what these rights are. For example, even under the PATRIOT Act, US librarians are allowed time to consult with an attorney before revealing any kind of personal information about any patron. Often library staff are intimidated and too readily hand over information that might be private.
 5. Librarians need to examine their hearts and consciences and demand of themselves that they separate their personal emotional responses from their professional responsibilities. Many librarians in New York City knew librarians who were killed in the Twin Towers, but that did not keep them from providing access to information to their patrons—even information about 9/11 that many believed was offensive or false.
 6. Librarians need the support of a strong national library association. In the case of the Connecticut Four, they were not allowed to share their burden, but in most cases, the national library association can provide legal and ethical assistance and moral support. This is one of the many reasons IFLA is focusing on strengthening national library associations.
 7. Librarians need to learn advocacy skills. This includes getting space in the local print press, on such social network sites as YouTube and Facebook, radio, and other media. They need to get the attention of key local, state, and national leaders to push their agenda. Again, I commend IFLA/FAIFE for its focus on advocacy. Library Connection got lots of attention in our local newspaper, the *Hartford Courant*, the state’s most prominent newspaper, and also in the New York and Washington, DC newspapers. It moved from a local to a national story. Librarians must gain these media skills and other skills to push our agenda. □

(free people read freely . . . from page 198)

other complaints were often associated with one of the two new categories. We also found that many others were categorized as “anti-Christian” or atheist in nature, so we broadened “mysticism or paganism” to “offensive to religious sensitivities” to account for these closely related complaints.

This year 60 books were challenged for containing sexual content or nudity, making it the most often cited reason for challenging a book. Of these 60 books, 17 were banned and the use of 14 was restricted.

Additionally, 17 of these books were retained. Discounting “other,” “sexual content and nudity” was also last year’s most often cited reason for challenging a book. However, it was then only associated with 43 challenges, 27 of which resulted in a banning or restriction.

Profanity was the second most often cited reason for challenging a book this year. Thirty-seven books were challenged for this reason. Ultimately, 10 of these challenges resulted in a ban and another 10 resulted in a restriction of access.

Politically, racially or socially offensive (PRS) and violence or horror are next on the list, respectively. PRS content was the reason 16 books were challenged. Of these 16, three were banned, the use to two was restricted, and six were retained. With 15 challenges, violence or horror is only slightly lower on the list. Three of these 15 resulted in a ban, three in a restriction, and two in retention.

Drug or alcohol use and offensive to religious sensitivities were the next lowest pair on the list. Eight books were challenged for references or depictions of drug or alcohol use. None of these books was banned; however, the use to five was restricted and two were retained without restriction. Six books were found to be offensive to religious sensitivities and were challenged as a result: one was banned, the use of three was restricted, and two were retained without restriction.

“Other” was at the bottom of the list this year, unlike last year when it was the most often cited reason for challenging a book. One must assume this was due mostly in part to the addition and broadening of the other categories. This year only four books were challenged for reasons not falling under the above six categories, but none of these were banned or restricted.

Process, Policy, and Appeals

Most school districts in Texas have formal reconsideration policies in place for use in the event that a book is challenged. Reconsideration policies are designed to ensure books are neither restricted nor banned behind closed doors or without clear guidelines. Furthermore, formal

reconsideration policies exist to provide transparency, accountability, predictability and the opportunity for the fate of each book to receive a fair trial of sorts. Sometimes members of the community may even voice their opinion on the book’s place in the library.

This year we began to ask each school district about their reconsideration policies. Specifically, we asked them two questions. First, we asked each district to list the personnel responsible for reviewing (and deciding) challenges. The choices we gave were: administration only, librarian only, school board only, and review committee. Secondly, we asked each district if the decision to ban each book is final or not.

Of the 889 districts that responded to our open records requests, 786 responded—at least in part—to our questions about their reconsideration policies. Four hundred eighty-one (61%) of these reported a review committee is in charge of reviewing challenges. Usually review committees are comprised of a combination of teachers familiar with the material, librarians, and administrative staff. Sometimes even parents and students are asked to join these committees. Usually it is the principal who names the committee.

Schools with a policy giving the school board sole authority to decide the fate of challenged books were the next most common. We found 143 (18%) school districts to have this as their policy. Following closely behind were school districts that give this responsibility to members of the administration (e.g. principal or superintendent). There are 135 (17%) of these districts. Surprising, only 27 (3%) school districts give librarians sole discretion in reviewing challenges.

The second question, are decisions to ban or restrict final, returned alarming results. There were 753 districts that responded to this question. Of these districts, 414 (55%) reported that all decisions are final. This means once a book is banned in these districts there is no formal appeals process by which a community member or student might hope to have a book reinstated into the library.

On the question of finality, 339 districts reported having some sort of appeals process in place. Most often these were either two-tiered or three-tiered processes. With the former, the decision is appealed directly to the school board. With the latter, there is a second level before the school board, usually the superintendent.

While researching the various reconsideration policies districts employ, we came across a particularly interesting and discouraging finding in Houston ISD. HISD is the seventh largest school district in the United States and one that frequently experiences a relatively large number of challenges. In this key district we discovered what is safe to call a complete failure in policy, record keeping, and government transparency. When asked to provide records of their review committees meetings and membership rolls, representatives of HISD were forced to admit that no such records are kept.

Though the deliberations of HISD’s review committees affect a large number of students, the public has little hope of finding key information pertaining to their decisions. If a citizen wanted to request the names, votes, and arguments of the individuals who reviewed a challenge, she would be out of luck. We regard this information as essential public information that should be well documented and available to the public.

Decisions directly affecting the constitutional rights of students should simply not be made by anonymous actors and behind closed doors.

Most Challenged Authors and Titles

There are some authors whose works are challenged in Texas nearly every year. Three books were banned or restricted in the 2007–2008 and 2008–2009 academic years: *And Tango Makes Three* by Justin Richardson and Peter Parnell, *Bless Me, Ultima* by Rudolfo Anaya, and *The Black Tattoo* by Sam Enthoven.

Some noteworthy authors were also challenged this year and in previous years, including: Gary Paulsen, John Steinbeck, Maurice Sendak, Judy Blume, Anonymous (*Go Ask Alice*), Robert Cormier, and Ray Bradbury. As a side note, renowned authors on the list for the first time include Salman Rushdie, Orson Scott Card, Stephen Chbosky, and Cormac McCarthy.

Though these authors’ works have been challenged in years prior, none of them were among this year’s most challenged authors. The most challenged author in this year’s report was P.C. Cast. In Stephenville ISD, all six books in her *House of Night* series were banned at Henderson Junior High School. What’s more, the second most challenged (and banned) author this year was Richelle Mead; all five books in her *Vampire Academy* series were banned at the same school. This makes Stephenville ISD the most prolific banner of the year with 11 bans.

The deeds of Stephenville ISD do not end there, however. Both series are about teenage vampires. It seems that an individual or group of people went on a crusade against books about teenage vampires. Though the books were all challenged for sexual content or nudity, one can’t help but surmise these books were targeted at least in part because of the type of characters portrayed.

The most shameful aspect of Stephenville ISD’s practices was the district’s preemptive banning of the books. None of the 11 books banned at Henderson Jr High were named in their response to our records request. Rather, the district simply reported that they had banned the two teen vampire series from the library. This is interesting because neither series has been completed. So, Stephenville ISD actually banned books that have not yet been published and perhaps even books that have yet to be written. There is no way the district could know the content of these books, and yet they have been banned.

The fourth most challenged author this year was Lauren Myracle with five challenges. Myracle writes contemporary young adult novels and is most famous for her IM series. Three of these books were challenged in three districts but none were banned. The fifth most challenged author was Gary Paulsen, the author of young adult fiction often set in the wilderness. Three of his books were challenged: one was banned, one lost its place as a classroom reader, and one was age restricted.

Texas Library Association Resources

The Texas Library Association (TLA) holds that the freedom to read is a corollary of the First Amendment’s guarantee of freedom of the press. Freedom of choice in selecting materials is a necessary safeguard to the freedom to read and must be protected against extra-legal attempts by self-appointed censors to control that process. Citizens have the right of free inquiry, and democracy itself rests on an open dialogue and demands that freedom of the press in all forms of public communication be defended and preserved.

The Association, through its Intellectual Freedom Committee, supports access to information by responding to librarians facing book challenges, offering model policies and procedures, tracking reports of book challenges by its members, and supporting policies and legislative action that respect access to information. Members of TLA’s Intellectual Freedom Committee are also available to consult with librarians facing intellectual freedom challenges. □

**SUPPORT
THE FREEDOM
TO READ**

(banned authors speak out . . . from page 196)

I met her last year and she made a great impression on me then. So I wanted to talk about her a little, because I was struck by the idea of her life of labor. And I was going to share this letter I received after the event the last year. About the silence that I was originally going to talk about, but when they were talking about Judith last night, made me see this letter in a completely different context, so I wanted to share this reader's letter with you all and talk a little bit about Judith if I could. So, here's the letter.

Mr. Chbosky,

I really hope you read this. If not, whoever is reading it thanks for doing so. I had to write to someone who I didn't know. I guess a little info is needed so you can get a mental photograph of me. I'm 15, the youngest junior at my school. I'm not one of those popular kids. I've always found refuge among people who actually cared for me and such. I have a younger brother, he just turned 14 and I have a mom. I used to have a dad, but he died November 5th, 2008.

But really the point of this is so that I can finally say what I'm thinking and feeling. I literally just finished *The Perks of Being a Wallflower*, and it made me think about so many things. It gave me a sense of hope; I was lost and confused for so long when my dad died and left me to face life alone. Things snapped. I started doing things I wish I had never did to myself. The scars and burns still show. I'm so ashamed because of them. Last night, I had written letters to the people I love saying how sorry I was that I was leaving them; that I had to because I felt like was burden on everyone around me; how it has been 100 days since my dad died. He promised me he'd see me graduate. That's why I hate promises; they're always broken. But back to my letters. They sit, neatly organized on my desk. Now, I feel like I've betrayed everyone because I planned on killing myself today. I was so ready to swallow the pills and just let my heart give out, but reading your book gave me a reason to not kill myself. It made me think about everything. My favorite part was the last page about being alive in a tunnel. It made me realize that there was goal for me. I have always gone through life as if I were sleeping, but my goal is to find that moment when I feel like I am finally living. So, really, what I'm trying to say is thank you for giving me a reason and a goal to keep going. If I hadn't read your book in one night, I would be dead right now. I write this in pen because I am definite about what I am saying. Thank you for giving me the chance to do so.

PS: Do you think my dad can see my new determination to keep living? I really hope so.

That's what she wrote to me. [applause]

So, this where we come back to Judith and why I shared that letter thinking of her. I heard an expression a long time ago that I thought was very beautiful that says that "he who saves a single life saves the world entire." And so I asked myself, "How was this girl saved, ultimately? How did my book get into the hands of this girl in the first place?" And it was because it was in a school, and it was in a school library. And about 50 miles away from this school—and this had been a long time ago—my book had been challenged. It was in Newton, Mass., and people like Judith and people of this organization fought it and they won. And I have to believe on a very deep level that there's a trickle effect and because of that, then this girl gets this book. And I feel that she got it because since 1982 authors and librarians have gathered in this city to read out from banned books and because in 1967 a very brilliant woman had an vision for a department. And we are all here because she had that vision. Her organization fought to keep the dialogue open. And I have to say that people at the Freedom Museum and the American Library Association and Nanette and Jen and all the people who are some lovely to us, the authors.

So, I want to share one piece. So, I want to share a little piece of my book, actually the only piece I did not write. When I was a kid there was this poem that was passed around, that my sister gave to me, and the rumor was that it was some kid's suicide note. Through a long story, way longer than I have time for here, I actually found the author of that poem; he found me and he gave me the rights, and he was like this beautiful, he was an educator out of Colorado whose name was Dr. Earl Ruhm. And this had been my favorite poem since I was like 15. And out of nowhere, I get this call—I was actually asleep—and he was like "Hi! I wrote that poem!" And I started crying, and he was just great. So, I wanted to share this poem with you all and then go and hang out with my friends. Here is his poem:

Once on a yellow piece of paper with green lines
he wrote a poem
And he called it "Chops"
because that was the name of his dog
And that's what it was all about
And his teacher gave him an A
and a gold star
And his mother hung it on the kitchen door
and read it to his aunts
That was the year Father Tracy
took all the kids to the zoo
And he let them sing on the bus
And his little sister was born

with tiny toenails and no hair
And his mother and father kissed a lot
And the girl around the corner sent him a
Valentine signed with a row of X's
and he had to ask his father what the X's meant
And his father always tucked him in bed at night
And was always there to do it.

Once on a piece of white paper with blue lines
he wrote a poem
And he called it "Autumn"
because that was the name of the season
And that's what it was all about
And his teacher gave him an A
and asked him to write more clearly
And his mother never hung it on the kitchen door
because of its new paint
And the kids told him
that Father Tracy smoked cigars
And left butts on the pews
And sometimes they would burn holes
That was the year his sister got glasses
with thick lenses and black frames
And the girl around the corner laughed
when he asked her to go see Santa Claus
And the kids told him why
his mother and father kissed a lot
And his father never tucked him in bed at night
And his father got mad
when he cried for him to do it.

Once on a paper torn from his notebook
he wrote a poem
And he called it "Innocence: A Question"
because that was the question about his girl
And that's what it was all about
And his professor gave him an A
and a strange steady look
And his mother never hung it on the kitchen door
because he never showed her
That was the year that Father Tracy died
And he forgot how the end
of the Apostle's Creed went
And he caught his sister
making out on the back porch
And his mother and father never kissed
or even talked
And the girl around the corner
wore too much makeup
That made him cough when he kissed her
but he kissed her anyway
because that was the thing to do
And at three A.M. he tucked himself into bed
his father snoring soundly

That's why on the back of a brown paper bag
he tried another poem
And he called it "Absolutely Nothing"
Because that's what it was really all about
And he gave himself an A
and a slash on each damned wrist
And he hung it on the bathroom door
because this time he didn't think
he could reach the kitchen.

Lauren Myracle

Lauren Myracle has been challenged, and banned, all over the U.S. Her popular "Internet Girls" series, which includes TTYL, TTFN, and L&R G&R, have been the primary targets of challenges, for including sexually explicit material and being unsuited to the age group.

So, first of all, as always, like all the authors, thank you banned book people for bringing us here and thank you guys for being here and all the librarians and all that. I want to start jumping off something that Sarah Brannen, author of *Uncle Bobby's Wedding* talked about, I thought it was so lovely that she mentioned that she wanted to bring out Uncle Bobby marrying man not as the point of the book, but, just those were the characters. And yes people jumped all over it and got upset, but it was no big deal, she just wanted to show that it's part of the fabric of this life. My new book coming out, *Luv Ya Bunches*, had something interesting happen already with the aspect of being banned.

So, y'all know, y'all who are students or who are parents, know that Scholastic do these book fairs, where they take these books to schools round and around, and we got this letter, my editor and I when *Luv Ya Bunches* was in galley form, meaning it hadn't yet come out as a book, saying "We'd love to include *Luv Ya Bunches* in the Scholastic Book Fair, but we have some problems." And then there this came this list of maybe 20 problems, and it would say things like, "on page 5, one character says 'Oh my god!'" and "on page 21 a character says 'crap,'" and on page 45, "there is reference to Milla's two mothers." And it was this whole list of things. And I wrote back to my editor. And, I said, "Okay, listen. Some of these are no-brainers; they're easy to change. I can change 'Oh, my god' to 'Oh, my gosh,' for the sake of the delicate sensibilities of the Scholastic Book Fair. But, I'm not changing the two moms; that's a deal-breaker. You don't clean-up a girl having two moms. And my editor said "I support you, I think you're exactly right." So, we told Scholastic that and they said, "we don't want it." And I thought that was so horrible and shocking and fascinating that Scholastic would say, "No, we're not presenting a book with two moms to our readers; that's not okay." And I told a librarian this, I went to a school in Atlanta, an awesome hippy-dippy progressive school. I

got up and told the story about *Luv Ya Bunches* and read a little bit from it, and she came up afterwards—she was very Southern and very effusive—and she said, “Ah, Lauren, you know we have 3 girls in this class who have two moms and to see the expressions on their faces when you talk about Milla having her two moms as if it was no big deal.” She said that just meant the world to them. I guess that’s one of the reasons we keep doing these things, even though you do come under attack, to show the world, to show kids, that their life can be reflected, too, and that it’s not something that has to be shunned away. Although some people, like Scholastic, want to shun it away. So, yep, I get banned for writing about a lot things, not just two moms. I get banned for writing about things that some parents and teachers and librarians would rather I not talk about. I’ll give you some examples. A teenage girl choosing to kiss her female best friend; a 12 year old girl who gets her period and has to sit down with a box of tampons and try to make her way through that dense pamphlet of instructions. Those of y’all who are women know what I’m talking about. It’s folded up into the size of an inch, and then it has those cross-section diagrams of the female body, but it looks more like a lima bean, and it’s all very confusing—y’all know what I’m talking about. So, that scene. Let’s see, what else—teenagers getting drunk and making bad decisions, just like those *Gossip Girl* kids, and teacher hitting on a student, and then again this idea of this girl having two moms. Some of these behaviors that I write about I endorse, some I don’t. Some of the life situations I put my characters in, I endorse; some I don’t. Do I think it’s cool for a teacher to ask a student to go hot-tubbing with him? As my history teacher did to me? No! I think that was abuse of power and kind of creepy. Do I think it’s cool for two grown women to choose to get married and have a kid? Heck yeah! But, that’s just me. Except the thing is, to say that, to say “that’s just me” is kind of a glib response, because my musings and my explorations of these issues in my fiction goes a lot further than just a comfortable conversation with your friends at a coffee table, because my ideas get put in books and those books go out to bookstores when anybody can pick them up and get access to them. So it is true that my ideas get out there more than they otherwise would.

I receive about 1000 e-mails a week from readers. And most of them are lovely. And I’m going to give you an example of a lovely one. This is from a 14-year old named Talia:

I just want to say that I love your books. I especially love the *TTYL* series. So often I have tough times at school. And what do I do? Cry my eyes out? Yeah, but then I jump under my covers and read about the Winsome Threesome some more. These books will be in my heart forever.

But other e-mails that I get, and I get at least a handful a week, are not of the delightful sort. So I’m going to give

you an example of one of those. This is a father named Chuck. Chuck says:

My daughter and step-daughter both read your book *11*, which seemed harmless enough. But, when my 11 year-old daughter read *12*, and came to me, and asked me what an erection was, I was at a loss for words. I’d hate to read *14*; I guess they’d be snorting coke and getting knocked up. Just because you were apparently a girl with loose morals in early life doesn’t give you the right to influence young girls to stray from the path of righteousness.

P.S. Thanks to me, your books have now been removed from the accelerated reading program at our school.

Yay, thanks, Chuck!

I want to give you a couple more examples of these letters from the parents, because we haven’t really talked about the banners, so much. And I have more to say about them. But, let me give you a taste of them first. Here’s one from a concerned dad:

“My 12 year young daughter”—that’s the way he says it—“My twelve year-young daughter received your book *TTYL* for her birthday. She got it from a friend, who bought it in the bookstore in the”—he puts it in quotes—“young adult’ section. I read a few pages of the book and was floored. Are you a pedophile? Do you enjoy making money off misguiding the youth? My wife and I are completely upset that you would market such trash at young people. I honestly do not think that you 1) have any kids yourself”—actually I do, I have three—and 2) have any kind of conscience to be writing crap like this and targeting it at the youth. I am eagerly awaiting your reply.

Here’s one from Carrie:

I love to read, and so does my daughter. She loves your books, and requested them from Christmas presents. I, however, am sick to my stomach today as neighbors and other moms have exposed what lies between the cute hot pink cover of *TTYL*.

And then this part is a really painful, I think.

I trusted you with my daughter’s innocent mind, along with many other moms. The pen is a powerful tool to be used for good or evil. I would have hoped you would have chose the former.

And here’s one last one from Denise from NJ about *12*:

I find it absolutely amazing that you, as a mother, find it appropriate to inform young innocent minds of such things as thongs, french kissing, tampons, and erections. My 12 year-old daughter innocently picked up your book and had I not intervened, she would

have been told by an author things that I would have preferred to tell her myself, in my own time. How this book got published is beyond me. Can our children remain children no longer?

And I think that one is a really touching one, too because it touches on the idea that parents they're angry, but they're also writing out of fear. They don't want their kids coming into contact with things that are scary, I guess. It's tempting, especially with a crowd of people who are sympathizers, to make fun of these would be book-banners, and in some cases, successful book banners. I've had my book pulled; I've had two successful book bannings happen—one in Texas and one in some other southern state. And then a lot of other librarians have written to tell me that they know of colleagues who have just quietly pulled the book off because they don't want to deal with the hassle of a challenge.

Oh, and I had this one woman, and this goes back to the idea of wanting to poke fun at the book banners: she posted an online website that was a virtual alert. It said, "Satan is on the rampage and his name is Lauren Myracle." So, she wanted people to pray for me, but here's an awesome response to that. I put it on my blog, and one reader wrote back: "I love your books and think they're hilarious. However, I don't think Satan is hilarious. Therefore, you cannot possibly be Satan." I loved that.

So, back to the banners. Easy to want to make fun of them, except for this. Their anger springs from fear, and they love their kids, just like I love my kids and just like you love your kids and just like you kids will love your kids when you get to have them. And, the grown-ups who care so much about what their kids are reading: they are not the enemy, you know? So what I want to end with is looking at an example of what can happen when you get past this kind of us-them mentality and try to have some actual communication. So, I'm going to read you an exchange that went back and forth between myself and one of these upset parents. Because I'm a good southern girl, I always write back even to these—and they're like, "Really, you write back to all the people saying 'You have a brain disease, lady!'" And I write back and say, "I'm sorry you think so."

Dear Lauren:

I picked up your book *The Fashion Disaster That Changed my Life* at the library for my 12 year old daughter. She just started junior high and by reading the description on the jacket cover, I thought she'd like it. I had some time to burn in the afternoon, so I picked it up and started reading it. I was shocked and disgusted. Menage-a-trois in a book aimed at young girls? "Honey-roasted penis" shouted several times off the page? And the part about Jeremy putting the teddy bear to this crotch and thrusting his hips? Come on! How can this be labeled for young readers? It disgusts me that authors with influence on young people feel

the need to sex up the content of books. Why can't you write the story and just leave the sexy stuff out? Why can't kids be kids and not throw this kind of crap at them? Do you want your two sons, who according to your book jacket will someday be in 7th grade, to be reading things like this? Ask yourself honestly: would you like to have your sons ask you about things they read in a book that was supposed to be a youth book, that you would also find in the *The Joy of Sex*. I am not a prudish ultra-conservative, anal parent. There is just so much crap out there, I wish I didn't have to proofread my kids' books. It makes me sad. There is nothing left for kids to learn as they grow up. It has to be thrown at them when they don't even have boobs. I would appreciate a response, I'd like to know your thoughts about this.

Sincerely,
Leslie.

PS: I'm informing the library about the content of this book and will raise heck until they remove it. A parent should know what their kids are going to read.

So I write back.

Dear Leslie:

I'm so sorry you found my book upsetting. I love what I do and I try to do my best at it, and it makes me sad when I make anybody unhappy. Here is my quick perspective: there are lot of books out there and a lot of different readers. And not every book will be right for every reader. One of my goals is to write realistic fiction for girls. And my guess it that when a book speaks to them truly, they'll be moved by it and find it meaningful. Kids do talk about sex in 7th grade. Sometimes, seeing this reflected in a book can give them a safe place to process it. And if it's not for them, they'll put it down. Again, sorry the book didn't work for you and your daughter.

Best, Lauren

So, Leslie writes back.

Dear Lauren:

Thank you for your response. Honestly, I do understand where you're coming from. I know that every book is not for every person. I know what is said in junior high. My question for you, as an author and a mother, do you understand where I'm coming from? The library is no longer safe for kids, when such realism is packaged as a book. I spoke with the director of the library where I got your book. We had a nice discussion about this issue and he said that your book was tame compared to the *Gossip Girls*—just kidding—he didn't really say

that. He just that your book was tame by comparison to others. While he told me they cannot put a warning label on any book, or remove it without due process, he did encourage me to fill out a book review form with my concerns and that he and the board would read the book, review it, and then decide whether or not to removed it from circulation.

So, again, another shout out to librarians: what an awesome response! He listened to her and responded.

I did enjoy the story and the message of the book. I know my daughter would have enjoyed it too, if I had let her read it. I truly with all my heart and soul believe that the book can be just as realistic and powerful and relevant without such language and imagery though. This goes for music and movies as well. Maybe for your next project you can try to write about some of the girls who don't want the sex and the language and the clothing. Thanks for the discussion, Leslie.

So, I wrote back:

Hi, again, Leslie:

Thanks for your nice response. I was expecting further attack, to tell the truth, so this was a nice surprise.

And it was—it was nice to see that I could diffuse her and also interesting to see her really wanting to engage.

I do think it's an issue to be talked about. I think sometimes I write in a little bubble, and I forget that there are real readers and mothers out there. I can understand your position. In a way I think that's what all of us as mothers feel. We wish that the world wasn't bad and hard and scary and dangerous at all. We hate that our kids have to face it. We hate for example when our son comes home in tears on the first day of kindergarten because a first grader told him that boys aren't allowed to wear pink. We want to the world to be perfect for our kids. I guess I don't worry quite as much as you do about the content of what my kids are reading. Mainly I figure they can handle whatever comes at them. My husband is a teacher and a reading

specialist, and he tells me that research shows that kids really do put down books when they're not ready for them. And if they are ready for them? And maybe we as parents just aren't? Then, I'd rather they tackle those tough issues through a book than some other way. But even though I don't screen my kids' books, I do read them myself. Just so I know that they're reading and then we can talk bout it. That's all for now –time for me to go to bed. You're doing what you think is right for your kids, and I respect that. Best, Lauren.

PS: I do have one character in a book who rejects and resists all the pop culture teenage craziness of these days; her name is Whinny and she holds her own quite nicely. You can read about her in *II*.

And then the last correspondence:

Hey, Lauren

One more e-mail then I'll leave you alone, I promise. I'm sorry if you saw a screaming, angry, drooling, crazed mother in the first e-mail I sent. I'm not like that. I like to discuss things and say how I feel. I appreciate the dialogue, I truly do. You're right, we do try to protect our kids. I have three girls and two boys. The pressure on the girls is so huge. You know that I mean. I wasn't a reader until I became a mom with her first baby, so I didn't read much other than what was required in school. I have enjoyed reading the books the kids are reading. It's been great bonding for us. But sometimes, the books my kids are ready for, like *Fashion Disaster*, throw something in there that goes against what their family values are. There they are, happily reading what they think is a good book, and then, wham! It was too late, there was no seeing the honey roasted penis coming! I will see if the library has *II*, and I will give it a go.

Tell your son: cool boys wear pink. My seven year-old wears pink, too. Take care—happy holidays—sincerely, Leslie—the drooling, crazed, mom from Idaho.

It is so easy to split up into us and them, and it's a nice reminder that you can make that bridge when you try. □

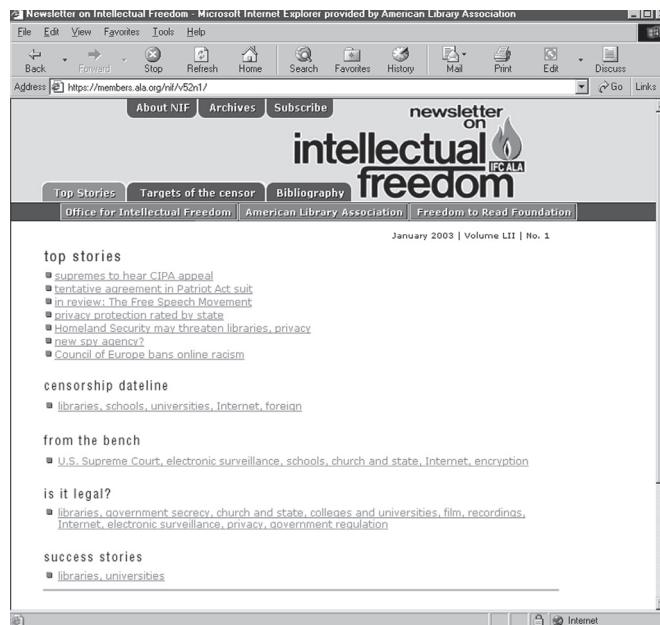
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