

JOURNAL OF

INTELLECTUAL FREEDOM & PRIVACY

Office for Intellectual Freedom, an Office
of the American Library Association



Mary Beth Tinker
and John Tinker
display the anti-
war armbands
they fought to
wear at their
school

READING FOR RIGHTS, EDUCATING FOR ETHICS

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SUMMER/FALL 2016
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YOU CAN'T CHANGE THINGS IF YOU DON'T ACKNOWLEDGE THE REAL PROBLEM,
AND PROBLEM IS CERTAINLY NOT THE BOOKS.

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SUMMER/FALL 2016 _ ABOUT THE COVER



 _ The cover photo shows Mary Beth and John Tinker, two of the young public school plaintiffs in *Tinker v. Des Moines Independent Community School District* 393 U.S. 503 (1969). They were suspended from school for wearing those armbands, a symbol of their grief over the one thousand soldiers killed in Vietnam at that time.

In an [interview](#) with attorney Robert Corn-Revere, Mary Beth Tinker recalls that her father, a Methodist minister, and her mother both believed in “putting faith into action,” and were actively involved in the social gospel movement. This led them to take part in the civil rights movement and the fair housing movement. Their activism influenced the Tinker children to join other students in Des Moines in wearing black armbands to school to mourn the dead on both sides of the Vietnam war. The armbands were also in support of a Christmas truce called by Senator Bobby Kennedy that year.

The American Civil Liberties Union represented the Tinkers and their classmate Christopher Eckhardt and the case was decided in their favor. This 7–2 landmark decision written by Justice Abe Fortas famously stated, “It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” Mary Beth now heads up the [Tinker Tours](#), which provide programs for youth to get involved in First Amendment advocacy.

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The Second Issue!



Barbara Jones (bmjconsulting@gmail.com), Former Director, OIF and FTRF, and Editor of *Journal of Intellectual Freedom and Privacy*, vol. 1, no. 1.

Thank you for your positive response to the first issue. We are particularly happy with your feedback on how to shape this publication as we move forward. Franklin Roberts's thoughtful opinion piece urges discussion and collaboration on analyzing free speech issues, both theoretical and practical. If any of our readers want to grab a topic and turn it inside out with their colleagues, we would welcome it!

There are many provocative books out there right now, and are likely to be many more after this very divisive election season. In this issue are *four* reviews and an essay response to a fifth book, and any one of them could be the topic for an entire issue. I love that our reviewers did a deep read of each book and are fair but fearless in their reviews. I am gratified that my successor, Jamie LaRue, calls for civility in our discourse, just as Mr. Roberts does in his opinion piece. Martin Garnar's review reflects his experience teaching library ethics and caring deeply about this subject. He is followed by Sara Dallas, who tells us how to get involved with ALA's Committee on Professional Ethics.

I think you will especially enjoy Olivia Griffiths' "Burning to Read," an account of how she engaged her students in *Fahrenheit 451*. I never cease to be inspired by high school students, like those in her essay, and those at Lane Tech High School in Chicago who protested the attempted removal of *Persepolis* from the Chicago Public Schools curriculum. And, of course, look at our cover. Mary Beth Tinker was thirteen and her brother John was fifteen, when they wore those black armbands protesting the Vietnam War. I wish Mary Beth well on her Tinker Tours!



Let the Information Flow

Franklin D. Roberts (froberts@ggc.edu), Assistant Dean of Library Services,
Georgia Gwinnett College

About twenty years ago I became the library director at a small state college in a far-northern state, known mostly for liberal social stances even among its conservative electorate. So I was taken aback when the head of computing recommended I install the same filtering software used in the public school system to protect students from getting into “mischief” online. College students are taking their first steps into adulthood, I explained when declining his offer, and they *should* get into mischief. They should be testing their boundaries, finding out the world is much different than the dinner conversations they grew up with surrounded by people whose main goal was protecting them.

I believed then, and still believe now, that my job as an information professional is to help people challenge the ideas they have been exposed to, to find out that other people have other ideas and other ways of living their lives that may even be diametrically opposed to what they have been exposed to as “normal.” The only way students, or the patrons I used to serve as a public librarian, can know that there are other ways of looking at the world is to have as much unfettered access to information as I can give them. However, I also believe it is my role as an information professional to help equip these people with information literacy skills to locate the most accurate sources they can find in the middle of all of the “noise” out there. It is also to help inform students (and faculty and administrators and many others) that the First Amendment does allow for disagreement, even if it is messy.

As a newly reformed journal devoted to intellectual freedom and privacy, *The Journal of Intellectual Freedom and Privacy* has a key role for both the information professional and the layperson. It is a place we can spar about how we weigh freedom of access with freedom from offense—I

want to read about how people justify having *The Story of Little Black Sambo* books alongside the updated *Sam and the Tigers*, or how we inform students that even though expression of contrary opinions might offend them, it is dangerous to simply say there can be no expression of contrary opinions. And regarding those contrary opinions, who decides which ones we get to explore and which ones we do not—who says something is “good,” or something is “bad?” Should only prevailing opinions be considered, or should we consider not only what is orthodox, but also what is speculative? There are pluses to sharing a common culture, but there can also be strength in considering ideas that are not our own. I want to know how librarians are helping people who may be exploring new roles or ideas in the world—sexual orientation, emancipation from bad relationships, politically unpopular ideas—and making these ideas accessible to their patrons in what is perceived to be an increasingly insular political climate. How do we stand up to censors, left and right, who want to protect us from our own thoughts, not to mention the thoughts of “evil” Muslims or “racist” white male oppressors? The



status quo should never be the status quo—if everything is always comfortable, how are we learning anything? I want to find out how my colleagues challenge the status quo simply by letting information flow.

Along with intellectual freedom, this journal focuses on privacy issues. We are living in a world that is rapidly becoming post-privacy—a world of Edward Snowden and Anonymous and many other groups or individuals who are making it their cause to expose everything that is private to the public. This leads to powerful revelations, like torture at Abu Ghraib or learning of the Taliban trying to silence Malala Yousafzai in Pakistan. But it also opens us up to embarrassing personal revelations—is there more than titillation driving revelations of who among our neighbors may have had an Ashley Madison account? How do we weigh the need for shedding light for the greater good with the public's seemingly insatiable need for dirt? As we nudge closer to Andy Warhol's "fifteen minutes of fame" prophecy, how much, ethically, do we really need to know about everyone else? And, in a post-privacy world, does



IN A POST-PRIVACY WORLD, DOES REVELATION EVEN MATTER?

revelation even matter? Is it just another means to viral-video fame? I want to read about how my colleagues are struggling with disclosure versus discretion, and I want to know if someone has found an answer, or at least a direction, to help balance those scales. And then there is regulatory disclosure—do terrorist acts like September 11 or the Bataclan concert hall attacks in Paris justify

government having a back door to all encryption in the name of protecting us from bad guys? Does this back door open our lives to too much intrusion? Does safety only mean no one has privacy? Is that too high of a price for reassurance, or do the lives of our children matter more than who we are as individuals in the privacy of our own homes?

My hope is that others out there will take notice of this discussion and take part in it. It can be rational, passionate, dynamic, linear, or even blank verse, for all I care. The thoughts of others are important. My son taught me the quote, "None of us is as smart as all of us." All of us have voices and experiences—it is my hope we share both in these pages.

Seeking Nominations and Applications for Editor

The ALA Office for Intellectual Freedom seeks an Editor for the *Journal of Intellectual Freedom and Privacy*, a quarterly journal dedicated to both professional discourse and current news about intellectual freedom and privacy issues in libraries. The Editor will be responsible for overseeing the journal's editorial content and working with its volunteer editorial board to shape the journal's direction. Responsibilities include soliciting and editing long-form submissions and book reviews, overseeing the peer-review process for submitted manuscripts that require review, and working with the news editor and OIF staff to identify and develop content for the journal's censorship news and court reports sections. The position is part-time and editors are compensated on a per-issue basis.

Candidates should ideally have an advanced degree in library and information sciences, law, or humanities and a strong background and interest in intellectual freedom, privacy, and professional ethics.

Interested candidates should send letters of inquiry to Deborah Caldwell-Stone, Office for Intellectual Freedom, American Library Association, 50 East Huron Street, Chicago, Illinois, 60611. Correspondence may also be sent electronically to dstone@ala.org.



Professional Principles and Ethics in LIS Graduate Curricula

Martin Garnar (mgarnar@uccs.edu), Dean, Kraemer Family Library,
University of Colorado Colorado Springs

As a degree, the master of library science is regularly questioned as to whether it is still effective as preparation for professional roles in the field.¹ Concerns range from a lack of technical proficiency and practical skills in graduates to whether a graduate degree is even necessary to be a librarian. Defenders of the degree talk about the theoretical foundation given to graduates of library and information science (LIS) programs, including a grounding in the principles and values that undergird the professional work of a librarian. If that is one of the primary justifications of the degree, then it is important to understand how those principles and values, including professional ethics, are taught in library and information science programs. More than twenty years have elapsed since Shelley Rogers conducted a comprehensive review of ethics education in LIS program,² so the American Library Association's Committee on Professional Ethics decided to undertake a survey of all accredited LIS programs to ascertain the current state of ethics education in graduate programs, compare it to historical approaches, and discover how the committee can best use its resources to support the teaching of ethics to future librarians.

Literature Review

When we discuss ethics education, what do we mean? How do we agree upon the values that are covered by the broad topic of ethics in library and information science (LIS)? Koehler drew upon the LIS literature to identify commonly supported values within the library profession, including intellectual freedom, privacy, intellectual property, professional neutrality, preservation of the cultural

record, and equity of access.³ Koehler also noted that examining codes of ethics from a variety of professional library and information organizations revealed six common topics: patrons' rights and privileges, social issues, access issues, selection issues, responsibilities to the employer, and professional practice.⁴ Surveys conducted by Koehler and others found that while librarians tend to share these common professional values, there is no agreement within the



profession as to how they should be ranked in importance. Therefore, Koehler believes that LIS students should be exposed to the range of thinking on ethics within the field.

How professional ethics are taught in LIS programs has been studied in varying degrees of detail. Rogers conducted a survey of ALA-accredited LIS programs in 1992 regarding ethics in the curriculum.⁵ With responses from 52 out of 59 institutions, Rogers determined that while only six programs had stand-alone ethics courses, virtually every institution reported that ethics was woven throughout the curriculum, with many programs introducing related topics in foundational or introductory courses.⁶ Only one of the programs with an ethics course required all students to take it. Rogers noted that the majority of respondents felt that a stand-alone course was not the best approach because of the importance of ethics to so many topics within library and information science. Prior to the publication of Rogers's survey results, there were attempts to document approaches to ethics education at the state level. Blake examined the distributive approach to ethics in LIS curricula at graduate programs in New York State and suggested three options for ensuring that all graduates are exposed to ethical concepts: take a required course, pass a competency exam, or complete a required non-credit colloquium series before graduation.⁷ Representatives from the LIS programs in North Carolina also reported a distributive approach to ethics education in the curriculum.⁸

Other scholars have written about ethics education in their own institutions. Woodward detailed the topics covered in an ethics class in Drexel, including ethical theory, freedom of information versus privacy, ownership of information, social responsibilities, affirmative action, and censorship.⁹ Woodward believed that anyone working with personal information or making decisions about information curation should be required to take an ethics course.¹⁰ White discussed the heavy use of case studies in his ethics classroom and noted the challenge of getting students to think analytically about the cases rather than to just rush to finding solutions.¹¹ White also noted that the library profession's primary ethical concern is access to information, and therefore it is the primary focus of ethics education.¹² Paskoff described the distributed approach to ethics in the curriculum at Louisiana State, giving examples of ethical topics embedded in the new student orientation all the

way through a required seminar on issues in LIS in the final semester.¹³ Dow et al. noted that case-based learning for ethics was an effective approach for enhancing the ability of students to describe basic principles of ethics, apply those principles when faced with a dilemma, and increase overall interest in information ethics.¹⁴

As part of the broader topic of professional ethics in LIS, the field of information ethics has also been the subject of some discussion regarding its place in the curriculum. Holverstott-Cockrell made the case that information ethics needed to be added to the LIS curriculum, as the

concerns of traditional professional ethics may not reflect the complications of information use in the digital world.¹⁵ Carbo and Almagno reported on the University of Pittsburgh's multiple projects related to information ethics, including a course, information ethics fellows, a website, and a lecture series.¹⁶ Carbo followed with an update detailing their institution's approach to the course, including the importance of examining decision-making models and how to address the challenges of teaching students from diverse backgrounds.¹⁷ Britz and Buchanan

advocated for an immersive approach to information ethics education, and suggested that the topic should be embedded across the curriculum, not restricted to a single class or relegated to one week in another class.¹⁸

Whether it is the broader topic of professional ethics in library and information science or the narrower topic of information ethics, the literature shows that most programs have been taking a distributive approach to ethics in the curriculum, though a handful of programs continue to highlight ethics through dedicated classes. More than twenty years after Rogers' research was published, this study aims to discover if the same trends for ethics education are continuing.

Method

This survey was proposed in the spring of 2015 by the Committee on Professional Ethics (COPE) of the American Library Association (ALA).¹⁹ Deans and directors of LIS graduate programs that offer a master of library and information science accredited either by the ALA or jointly by the American Association of School Librarians and the Council for the Accreditation of Educator Preparation (AASL/CAEP) were contacted by email and asked to



IT IS TROUBLING
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ON ETHICS IN THEIR
COURSES.



complete a survey asking about the institution’s approach to teaching ethics, as well as how COPE could be of assistance in supporting ethics education in their programs.²⁰ The survey is available in the appendix.

Data collection began in the summer of 2015 after a lengthy approval process by the institutional review board (IRB) at the author’s previous institution. When the author moved to his current institution in September 2015, he was required to halt data collection and resubmit his project for review by his current institution’s IRB. The project was approved in October 2015 and data collection resumed, with another round of emails sent to the target institutions in October 2015 and again in January 2016 after the author presented at the annual Association for Library and Information Science Educators (ALISE) conference in Boston and made a plea for greater participation. Of the 97 institutions contacted (59 ALA accredited, 38 AASL/CAEP accredited), the total number of responses after seven months of collection was 36 (27 ALA accredited, 9 AASL/CAEP accredited), with an overall response rate of 37.1% (45.8% ALA accredited, 23.7% AASL/CAEP accredited). For the institutions that did not respond, the author examined their websites and course catalogs to determine (when possible) which classes included professional ethics and principles as part of the course objectives. Other parts of the survey could not be completed using this method.

Results

Ethics Courses

Of the institutions that responded, 17 stated that they had a required course specifically focused on professional

ethics and principles at the master’s level. However, upon further examination of the course descriptions, only 4 met the criteria used by the author when examining the offerings of non-responding institutions, so there is a large gap in what the institutions believe to be a specific course on ethics compared to the author’s perception. Of the institutions that did not respond, an additional 5 had required courses clearly identifiable as having a specific focus on professional ethics and principles, bringing the overall total to 9 out of 97 institutions (9.3%).

For elective courses with a specific focus on professional ethics and principles at the master’s level, 18 of the responding institutions indicated the existence of such a course, with another 13 identified from the non-responding institutions, for a total of 31 out of 97 institutions (31.96%). For courses that include professional principles and ethics as part of the learning objectives, 30 of the responding institutions listed qualifying courses at the master’s level, with another 42 non-responding institutions identified as having courses in this category. Additionally, 4 of the responding institutions reporting a required core class that was later judged by the author to be in the wrong category did not give an answer for this question, so those courses will be included here, leading to a final total of 76 out of 97 institutions (78.35%).

Of those programs offering a doctorate (all in institutions also offering an ALA-accredited master’s program), only 1 out of 24 (4.17%) has a required course on professional principles and ethics, while another 10 (41.7%) have elective courses on these topics. That means that the majority of doctoral programs (54.17%, or 13 out of 24) have

Table 1. Courses with Ethics Content in LIS Programs

Master’s Programs	ALA (n = 59)	AASL/CAEP (n = 38)	Total (n = 97)
Required Ethics Course			
Reported*	2	2	4
Observed	3	2	5
Elective Ethics Course			
Reported	16	2	18
Observed	12	1	13
Course(s) with Ethics Content			
Reported**	25	9	34
Observed	28	14	42

* includes only those classes judged to be focused on ethics

** includes classes with ethics content reported elsewhere



Table 2. Use of COPE publications in LIS programs

Document	No. (%) of Respondents (N=36)
Code of Ethics of the ALA	33 (91.7%)
Copyright: An Interpretation of the Code of Ethics	22 (61.1%)
Questions & Answers on Ethics and Social Media (An explanatory statement of the ALA Code of Ethics)	14 (38.9%)
Questions & Answers on Conflicts of Interest (An explanatory statement of the ALA Code of Ethics)	13 (36.1%)
Questions & Answers on Enforcement of the Code of Ethics of the American Library Association	13 (36.1%)
Questions & Answers on Speech in the Workplace (An explanatory statement of the ALA Code of Ethics)	10 (27.8%)

no identifiable courses with professional principles and ethics as a focus. Given that the majority of master’s programs in LIS offer courses in this area, perhaps the doctoral programs can assume that entering students will have been exposed to these concepts at the master’s level.

Comparing programs accredited by ALA to those accredited by AASL/CAEP, overall the ALA programs are much more likely to have courses with content related to professional principles and ethics, though there is a slightly higher percentage of AASL/CAEP programs with required courses (10.53%, or 4 out of 38 AASL/CAEP programs compared to 8.47%, or 5 out of 59 ALA programs). Looking at electives focused on professional principles and ethics, 47.54% of ALA programs (28 out of 59) have such a course, while only 7.89% of AASL/CAEP programs (3 out of 38) offer a course in this category. Likewise, 89.83% of ALA programs (53 out of 59) have courses that include ethics as part of (but not the focus of) the content, compared to 60.53% of AASL/CAEP programs (23 out of 38). Without knowing enrollment patterns in the courses with ethics content, it is hard to say how many students in a given program are exposed to those professional values, but it does appear that a student in an ALA-accredited program is more likely to have an opportunity to learn about professional principles and ethics than is a student enrolled in an AASL/CAEP-accredited program.

When asked to “briefly describe your program’s approach to ethics education in the curriculum,” the vast majority of respondents, including all AASL/CAEP programs that commented on this question, reported that the teaching of ethics was distributed throughout the curriculum. A few noted that ethics was a focus in a required foundations class, while one respondent from a program

with a required ethics course said that ethics is covered both in the required class as well as in other classes across the curriculum and also noted that there are a few ethicists on the faculty. Finally, two programs noted that the ethical use of information is emphasized through either through learning citation styles or using anti-plagiarism software, in addition to discussions of professional values in various assignments.

COPE Documents and Activities

COPE spends a significant amount of time on developing policy statements and other documents intended to provide guidance to librarians in the field. As a result, the committee wanted to know if any of the various documents produced by COPE were covered in their curriculum. Table 2 shows the results by title. The Code of Ethics, as a core document, has a solid place in the curriculum at responding institutions. The copyright interpretation, though the most recent of the documents, is also used by a majority of the respondents.

Since the survey was conducted on behalf of COPE, some of the questions were geared to potential future activities of the committee, such as new explanatory statements related to the Code of Ethics and other services that could be useful to LIS programs. When asked to rank topics for new documents related to the Code of Ethics, the most popular response was for “Personal Beliefs and Professional Responsibilities” followed closely by “Professional Conduct.” Almost half the respondents also indicated that a statement on “Professional Development” would be useful, while one respondent also suggested that the existing question and answer documents maintained by COPE could be customized for the K-12 setting.



As for other services that could be offered by the committee, two-thirds of the respondents said that infographics, pamphlets, or other brief publications would be useful, and another third of the respondents said it would be helpful to get support or assistance in creating ethics courses or curricula. The idea of direct connections between students and COPE such as chat sessions or mentor connections was less popular, so the higher level tasks of producing policy statements and offering curricular advice were the clear priority for the respondents.

Discussion

The majority of LIS graduate programs include an element of ethics education as part of their curricula. However, it is troubling that some programs have no apparent focus on ethics in their courses based on published materials, including 1 ALA-accredited program and 13 AASL/CAEP-accredited programs. While it is certainly possible that the actual levels of ethics-based content are not apparent from course descriptions or titles, the very lack of prominence regarding professional ethics and principles is an indicator of their importance (or lack thereof) within the curriculum.

When asked about their program's approach to ethics education, one respondent included their program's student learning outcome addressing professional values and ethics and noted that the application of the outcome in each class varies depending on the expertise of the instructor. Ultimately, this is the issue when the teaching of ethics is distributed across the curriculum, as students may have different levels of exposure to and engagement with professional values and ethics depending on which instructors they have.

Comparing these survey results to those from Shelley Rogers's of more than twenty years ago, the number of ALA-accredited institutions offering stand-alone, required ethics courses is virtually unchanged, and it appears that the approach of weaving professional principles and ethics

throughout the curriculum is still the favored method. What remains to be seen is how effective this method is. Though this survey was able to document the stability of the place of professional principles and ethics in graduate LIS curricula, it did not assess the effectiveness of this approach. Future research is necessary to develop an assessment tool for measuring whether the current practice of distributed ethics education achieves the goal of inculcating new librarians with the core values of the profession.

During the revision process of the most recent ALA Standards for Accreditation of Master's Programs in Library and Information Studies,²¹ COPE submitted comments regarding the place of professional principles and ethics within those standards and pushed for more specificity regarding student learning outcomes. COPE should continue to work with the ALA Committee on Accreditation to assess the impact of ethics education in accredited programs and should consider establishing a relationship with AASL to look at the place of ethics in CAEP-accredited programs. Meanwhile, there are a number of opportunities for COPE to expand its library of documents and statements related to professional ethics. The popularity of the copyright interpretation is notable given its relative newness. Whether this high usage rate is because of the content or because of the document's status as an interpretation, the committee may want to consider choosing to create interpretations over question and answer documents when addressing new topics if they believe that the content warrants more attention.

The second paragraph of the preamble to the ALA Code of Ethics closes with the following sentence: "The American Library Association Code of Ethics states the values to which we are committed, and embodies the ethical responsibilities of the profession in this changing information environment."²² In order for those values and ethical responsibilities to be embraced by future generations of library workers, they must be a central learning outcome of any library education program.

Notes

1. Michael Kelley, "Can We Talk about the MLS?," *Library Journal* 138, no. 8 (2013): 8; John Bertot, Lindsay Sarin, and Paul Jaeger, "Re-Envisioning the MLS," *Public Libraries* 54, no. 6 (2015): 23–33; James L. Mullins, "Are MLS Graduates Being Prepared for the Changing and Emerging Roles that Librarians Must Now Assume Within Research Libraries?," *Journal of Library Administration* 52, no. 1 (January 2012): 124–32.
2. Shelley L. Rogers, "Accredited Library School Education in Ethics," *Journal of Education for Library & Information Science* 35, no. 1 (1994): 51–55.
3. Wallace Kohler, "Professional Values and Ethics as Defined by 'The LIS Discipline,'" *Journal of Education for Library & Information Science* 44, no. 2 (Spring 2003): 102.
4. *Ibid.*, 105.



5. Rogers, "Accredited Library School Education in Ethics."
6. Ibid., 53.
7. Virgil L. P. Blake, "Ethics and Intellectual Freedom in the Education of Library and Information Science Professionals," *Bookmark* 48, (1989): 28–31.
8. "Ethics in Library/Information Science Education," *North Carolina Libraries* 51, (Spring 1993): 23–27.
9. Diana Woodward, "Teaching Ethics for Information Professionals," *Journal of Education for Library & Information Science* 30, no. 2 (1989): 132–35.
10. Ibid., 135
11. Herbert S. White, "Teaching Professional Ethics to Students of Library and Information Science," in *Ethics and the Librarian*, ed. F. W. Lancaster (Urbana-Champaign: University of Illinois, 1991), 41.
12. Ibid., 36.
13. Beth M. Paskoff, "Teaching Professional Ethics in Library Schools," *LLA Bulletin* 58 (1995): 39–42.
14. Dow, Mirah J., et al., "Case-based Learning as Pedagogy for Teaching Information Ethics Based on the Dervin Sense-Making Methodology," *Journal of Education for Library & Information Science* 56, no. 2 (Spring 2015): 141–57. *Library, Information Science & Technology Abstracts, EBSCOhost* (accessed August 13, 2016).
15. Michael Holverstott-Cockrell, "The Need for Information Ethics: A Graduate Student's Perspective," *Library & Archival Security* 14, no. 2 (July 1998): 67–73.
16. Toni Carbo and Stephen Almagno, "Information Ethics: The Duty, Privilege and Challenge of Educating Information Professionals," *Library Trends* 49, no. 3 (Winter 2001): 510. *Library, Information Science & Technology Abstracts, EBSCOhost* (accessed April 26, 2015).
17. Toni Carbo, "Ethics Education for Information Professionals," *Journal of Library Administration* 47, no. 3/4 (2008): 5–25.
18. Johannes Britz and Elizabeth A. Buchanan, "Ethics from the Bottom Up? Immersive Ethics and the LIS Curriculum," *Journal of Information Ethics* 19, no. 1 (2010): 12–19.
19. At the time of the survey's proposal, the author was chair of COPE.
20. The survey was developed by COPE members and initial research assistance was provided by COPE members Mary Jane Santos and Stephen Phelan, who compiled the contact information for the graduate programs.
21. American Library Association, "Standards for Accreditation of Master's Programs in Library and Information Studies," accessed August 31, 2016, www.ala.org/accreditedprograms/sites/ala.org/accreditedprograms/files/content/standards/Standards_2015_adopted_02-02-15.pdf.
22. American Library Association, "Code of Ethics of the American Library Association," accessed August 31st, 2016, www.ala.org/advocacy/proethics/codeofethics/codeethics.

Appendix: Survey Instrument

The purpose of this survey is to examine the inclusion of professional ethics and principles in LIS education. For the purposes of this survey, we will define professional ethics and principles to include access to information, intellectual freedom, privacy, copyright, and professional conduct.

- What is the name of your institution?
- For your master's program, please list the title of any **required** course or courses specifically about professional ethics and principles.
- Include an option for "NA"
- For your master's program, please list the title of any **elective** course or courses specifically about professional ethics and principles.
- Include an option for "NA"
- For your master's program, please list the title of any other course or courses that cover professional ethics and principles as part of the coursework
- Name of course: % of course about professional ethics and principles:

- [open text boxes]
- If you offer a doctorate, please list the title of any **required** course or courses specifically about professional ethics and principles.
- Include an option for "NA"
- If you offer a doctorate, please list the title of any **elective** course or courses specifically about professional ethics and principles.
- Include an option for "NA"
- If you offer a doctorate, please list the title of any other course or courses that cover professional ethics and principles as part of the coursework
- Name of course: % of course about professional ethics and principles:

- Briefly describe your program's approach to ethics education in the curriculum.



- Do the course(s) that cover professional ethics and principles include any of the following ALA statements in the course content? Check all that apply.
 - the Code of Ethics of the ALA
 - Copyright: An Interpretation of the Code of Ethics
 - Questions & Answers on Conflicts of Interest (An explanatory statement of the ALA Code of Ethics)
 - Questions & Answers on Enforcement of the Code of Ethics of the American Library Association
 - Questions & Answers on Ethics and Social Media (An explanatory statement of the ALA Code of Ethics)
 - Questions & Answers on Speech in the Workplace (An explanatory statement of the ALA Code of Ethics)
- On which topics would you find additional interpretations of the Code of Ethics and/or Q & As to be useful?
 - Professional Conduct
 - Professional Development
 - Personal Beliefs and Professional Responsibilities
 - Other _____
- How can the American Library Association and Committee on Professional Ethics support your faculty in the teaching of ethics and related principles? Check all that apply:
 - Mentor connections
 - Email/Chats with students in related classes
 - Infographics, pamphlets, or other brief publications
 - Other _____

Call for Submissions

The *Journal of Intellectual Freedom and Privacy* seeks submissions related to intellectual freedom and privacy, both in libraries and in the wider world. Submissions can include the following:

- research articles (peer review upon request)
- articles and essays discussing or describing policies, practices, projects, legal issues, and scholarly activities about or related to intellectual freedom, privacy, and professional ethics
- personal accounts of censorship and intellectual freedom challenges
- opinion pieces and essays on current and topical intellectual freedom and privacy issues
- book and publication reviews

The *Journal of Intellectual Freedom and Privacy* encourages publishers and authors to submit books and other materials for review.

Please send all inquiries, submissions, and review copies to Deborah Caldwell-Stone, Office for Intellectual Freedom, American Library Association, 50 East Huron Street, Chicago, Illinois, 60611. Items may also be sent electronically to dstone@ala.org.



ALA Committee on Professional Ethics

Scott P. Muir (muir@rowan.edu), Associate Provost, Library Information Services, Rowan University. Muir has been a librarian since 1978 and was formerly active in the Special Libraries Association and has been active in the American Library Association since 1987. He is currently a member of COPE.

Sara Dallas (sdallas@sals.edu), Director, Southern Adirondack Library System. Dallas serves as chair of COPE and is an American Library Association councilor at large. She served on the Public Library Association board and has been active in many ALA and PLA committees.

What is COPE and Why Does It Exist?

The Committee on Professional Ethics (COPE) is an American Library Association (ALA) Council Committee. COPE's charge is to augment the ALA Code of Ethics by explanatory interpretations and additional statements, prepared by the committee or elicited from other units of ALA. When units of the Association develop statements dealing with ethical issues, a copy is sent to the Committee on Professional Ethics for review so that it may be compared to the existing ALA Code of Ethics in order to determine whether or not conflicts are present. COPE then offers non-binding opinions on issues before the ALA Council.

The Council on Committees appoints the seven members of COPE. In addition, ALA Divisions are asked to recommend a liaison to meet with COPE and to share areas of concerns from the Division and the field, as well as report back to the Divisions on the work of the committee. The COPE liaisons offer a much richer process for engaging in discussion on ideas in the formal meetings.

What is the Code of Ethics?

The Committee on Professional Ethics has also been charged with reviewing the ALA Code of Professional Ethics which can be found on their [website](#).

The Code of Ethics, initially adopted in 1939, is intended to be a set of guiding principles for how librarians and library staff conduct themselves in their interactions with library users, with their colleagues, and in the provision of excellent service. These guidelines are not prescriptive and neither this committee nor ALA has the power to censure any librarian who does not follow the guidelines. Other library organizations such as the Special Libraries Association and the Medical Library Association have similar codes of ethics.

What Does the Committee Do?

The committee meets at ALA Annual and ALA Midwinter to discuss items of business, develop programming, and prepare a report each year for ALA Council. COPE conducts some business electronically throughout the year.



COPE members are also asked to serve on various ALA working groups. One of major activities of the committee is to develop a program for ALA Annual.

COPE continuously looks for ways to raise awareness of potential ethical dilemmas in the field. The 2016 ALA Annual program was “No Room at the Library.” The committee decided the format “What Would You Do?” created an opportunity help people think about real-life situations, before they might occur in their work setting.

Nine committee members acted in three short skits highlighting scenarios that might occur in libraries. The scenarios focused on religious insensitivity toward a Muslim employee by a patron, a complaint about a transgender person using a restroom, and a group planning to use library meeting room space that wanted to limit participation in their meeting only to people of a certain race. Each skit ended with the question, “what would you do?” The purpose of the program was to present provocative situations for consideration. The scenarios and discussions were not intended to state that there was a specific right answer to any of these situations, but instead to help the audience consider how they would want to respond to these situations if and when they happened in their library. Each scenario was followed by comments and opinions from the audience.

The panel included Loida Garcia-Febo, who served both as moderator and who set the tone of the program by giving an overview of ethics. Loida is well known for her work with international human rights, advocacy and access to information, and in working with diverse

populations. She is President of Information New Wave, a not-for-profit, seeking to bring education to multiethnic populations. Garcia-Febo is a member of the ALA Executive Board and the IFLA Governing Board. She was instrumental in developing the IFLA’s Code of Ethics for Librarians and other Information Workers. Also serving on the panel were Jeffrey Sowder, Anastasia Chiu, and Sara Ahmed. The program room was packed with nearly 125 people, with many standing in the back. Attendees interactively engaged with the panel, each other, and the COPE members. The audience members offered their ideas and concerns, with some sharing the difficulties they face in their local environments. This program format has been well received in the past and COPE plans to repeat it again. COPE is now considering potential scenarios for the 2017 Conference in Chicago.

The Future

Another way the committee is looking to raise ethical awareness is through a survey developed by past COPE Chair, Martin Garnar (see p. 6). The survey investigated how professional ethics are taught in LIS programs, with results being reported in this issue of the Journal of Intellectual Freedom and Privacy. Other awareness efforts include the possibility of developing an ethics toolkit and communicating with the ALA divisions and round tables to improve communication and understanding regarding the role of COPE.



Burning To Read

Letters from My Students in support of Banned Books Week and the Freedom to Read Foundation

Olivia Griffiths (olivia_i_griffiths@hotmail.com) is an English teacher at Ursuline Academy in Dedham, Massachusetts. She previously taught at St. Johnsbury Academy in St. Johnsbury, Vermont, where the students were and continue to be a source of inspiration and hilarity.

I am cognizant of how lucky I am. When I decided to teach *Fahrenheit 451* to my Accelerated Juniors during spring semester at St. Johnsbury Academy, the biggest administrative roadblock I faced was finding two minutes in the English department head's schedule to ask him face to face if I could. He said yes. And that was that. I did not have to fight with school boards, parents, or neighborhood committees. The books I handed out to my students may have been a little musty—ok, maybe a lot musty—but there were no “hells” and “damns” blacked out, no pages removed, and less than five minutes after Steve Jolliffe said “yes” I left the subterranean book room with an entire box of them at my disposal.

This is not the case everywhere. A quick Google search turns up three significant incidences of banning or censorship of *F451* (we shortened the title in class for quickness of discussion and also because I really like acronyms) in America. In 1987, a school in Panama City, Florida relegated it to the ignominious “third-tier” status, citing “a lot of vulgarity”; in 1992, a school in Irvine City, CA, redacted all the “obscene” words before distributing the books to students; in 2006, during Banned Books Week, incidentally, a school in Montgomery County, Texas was forced by parents to ban it due to offensive language, incidences of Bible burning, violence, the negative portrayal of Christians, and, both noteworthy and hilarious, the negative depiction of firemen. (Personally, I think the

only demographic who have valid claim to libelous portrayal in *F451* are Dalmatians—firehouse dogs get a pretty sadistic rap.) But for me, it was easy; I wanted to teach a book, and I was allowed to do so. It was my decision, my right, my freedom.

The irony of banning a book that is itself an indictment of book banning of course provides a natural learning opportunity. Before I began teaching, I spent ten years in publishing and participated in the outreach for and promotion surrounding the ALA's tireless Banned Books Week campaign. Given my familiarity with the campaign, many of my lessons essentially planned themselves. Most of my students already knew about Banned Books Week, at least peripherally, and could recall anecdotal incidences



of *Harry Potter* being burned or evince a passing familiarity with titles like *Beloved* or *Lolita* being banned. Together, we looked at the list of Banned Books throughout US history, and discussed the “rationale” behind the banning of each one. Some made sense to my students, some elicited gasps of horror or disbelief. Many found their own personal favorites on the list; *Looking for Alaska* and *The Perks of Being a Wallflower* were particularly indignation-inducing. Wesley Kane, who is as old school as they come, (literally, the kid is the reincarnation of Jimmy Stewart) nearly exploded when he found out that *The Call of the Wild* had once been challenged. I asked my students, first in an all class discussion, then again in a written homework piece, if they had one book to save from such treatment, what would it be and why? *Perks* came up, as did *The Fifth Wave* by Rick Yancey, *Pride and Prejudice* by Jane Austen, and the Bible. I bit my tongue when Samantha Molleur claimed *My Sister's Keeper*, by Jodi Picoult, and reminded myself that she was young and would soon learn the error of her ways, that not everyone shared my deep, deep, deep disdain for ol’ J.P., and that it would break the bounds of hypocrisy to shame her in a lesson surrounding censorship. What was interesting was the commonality of reason behind each choice. All my students saved their one book because of the message it promoted, and because of the importance they perceived that message to have for society. And that message was universally one of tolerance, acceptance, and understanding. Saving a book that tells you to be a good person doesn’t just save that one book, it saves the idea of being a good person, too. And everyone who reads it, or hopefully the majority who do, are good, are better, people, because of reading it. Saving a book simply because it makes you happy is completely and utterly legitimate. Saving a book because it makes you happy and because it helps the world be a better place, that’s a whole different story. So first, my students are awesome. And second, they know that books can change the world. (I refer you back to point one.)

Teaching *F451* in 2016, too, added an entirely new and entirely terrifying dimension to the work. I lost track of how many times someone raised a hand and said “Wait, are you *sure* this was written in 1953?” Bradbury’s dystopian portrayal of a world constantly at war with itself, self-medicating with media, and deliberately blinkering themselves to reality in favor of soap bubble entertainment is freakishly similar to our current existence. The parallels we can now draw between our society and that of Guy Montag redefine the concept of foreshadowing. I don’t think we give Bradbury enough credit for predicting the excesses of our entertainment obsessed culture as

accurately as he did: for, in 1953, predicting that we would spend our lives absorbed in screens that told us what other people were doing; for, in 1953, predicting, literally predicting, reality, and now interactive, television. In “The Hearth and the Salamander,” when Montag asks Mildred what’s on that afternoon, she tells him that she’s watching a play with one part deliberately left uncast: “When it comes time for the missing lines, they all look at me out of the three walls and I say the lines.” I hate to write this, but I’m going to anyway: Ray Bradbury predicted *Dora The Explorer*. No wonder the future is so bleak.

Bradbury somehow saw that eventually we would cease to be satisfied with merely observing our entertainment, that eventually we would need to be part of it, too. When those hashtags appear at the bottom of the screen during . . . well, almost every primetime show now . . . that’s exactly what Mildred is saying. If I’m watching (OK, fine, judge) *Property Brothers*, HGTV is not satisfied with me just watching. They want me to get on my phone and tweet which house I prefer, [#concretechaos](#) or [#woodenwonderland](#). Just now, when I went to the show’s website to search hashtags, my computer offered to remind me when the next episode will air. The level of interaction that is now demanded by my entertainment is literally and figuratively the four walls that Mildred wants Montag to install in their parlor. And let’s be honest with each other, we give that interaction willingly. We can’t just watch a show anymore; we have to live inside of it. In class, we talked about Twitter, the twenty-four-hour news cycle, reality television, Kim Kardashian, and (God help us) Donald Trump and the 2016 primaries. I once had to tell a kid to take his headphones out so he could join our discussion of the ear Seashells that Mildred won’t stop wearing. The concept of three-dimensional immersive entertainment, the desired addition of that fourth, encircling wall, the idea of a population deliberately and increasingly blocking out everything to the exclusion of shiny, happy, and of-the-moment things, all of this was so close, so real, so terrifyingly predictive, that my kids were torn between being impressed at Bradbury’s clairvoyance and being disgusted at themselves for first creating and then perpetuating this world. It was simultaneously really cool and really, *really* scary.

So. All well and good. *F451* offered pretty much everything you could want in a classroom text. Engaged and engrossed students, vibrant class discussions of censorship, free speech, and mass media, contemporary parallels to everyday life, outrage, shock, hilarity, vocabulary, literary analysis, and the usual shouting, ridiculous dancing, and esoteric tangents that generally punctuate my classes.



But what else? There comes that time in the teaching of a text when you have to ask yourself “But what are my students going to do with this information? How will they show me that they have learned a skill or a thought process, and how can I assess their knowledge?” The message of *F451*, is that books, words, ideas, should never, can never, be censored, by anyone, for any reason. That censoring, blocking truth, limiting yourself to those shiny, happy, and of-the-moment things, engenders stupidity, ignorance, and anarchy. As Bradbury himself writes in his closing and mind-blowing letter to the reader, “The real world is the playing ground for each and every group, to make or unmake laws. But the tip of the nose of my books or stories or poems is where their rights end and my territorial imperatives begin, run and rule.” Within the covers of a book exist whatever thoughts, words, feelings, or ideas the author desired to write down. If you as a reader wish to read and share them, then great, read on. If you don’t, then don’t. It’s as simple as that. What remains paramount, crucial, essential, what remains necessary for the survival and progress of civilization itself, is the right of every human being to read on, or not, as they themselves see fit. It’s that “unalienable” right that those who seek to ban and censor have lost sight of, or have deliberately chosen to ignore.

In discussing censorship, I had tapped outrage and disbelief that such a “dystopian” idea was put into practice on a regular basis. As a teacher, I had succeeded in sparking something inside my students. As a teacher, I now had to take that spark and do something with it. I had to kindle it, and keep it burning. But how? I suppose the word “spark” and *F451*’s ubiquitous flame metaphors had a lot to do with what came next. In “The Hearth and the Salamander,” that famous Hugh Latimer quote is spoken by an old woman as the firemen burn down her house with her inside it: “Play the man, Master Ridley; we shall this day light such a candle, by God’s grace, in England, as I trust shall never be put out.” Latimer and Nicholas Ridley were burnt at the stake for heresy in 1555. They were, when you think about it, some of the earliest activists against censorship, together with Thomas Cranmer, in fighting for their freedom to read *The Book of Common Prayer*. But as Latimer urged Ridley on that unfortunately damp October day, in death they wanted to be a symbol of those who had gone before them and to those who would come after. They wanted their deaths to be that spark, candle,

torch, light, beacon, whatever you want to call it, that would remind people what they were fighting for and why.

OK, so here is where I stop waxing lyrical and say as a caveat that I had no plans of death (mine or anyone else’s) for this final project. Whilst I am the first person to go the wall for my students, and the first person to tell them to give it their all, advocating a fiery conflagration for the sake of a final grade might be pushing it slightly. But the principle remained. I had ignited that (metaphorical) spark, and I wanted to turn it into a raging fire. In my ten years in publishing, I worked fairly closely with the ALA and their Freedom To Read initiative. Given my familiarity with the campaign, it struck me as an interactive, authentic, and fun idea to have my students write a letter to the organizers of Banned Books Week in support of their efforts. A letter would (articulately) channel their indignation; it would light an (articulate) candle, which, hopefully, would never be extinguished. It would serve as an (articulate) wake up call and an (articulate) reminder to themselves and others

that censorship is alive and kicking, and that complacency in some cases is as good as support.

For who better to speak out on behalf of the freedom to read in schools than students themselves? Who better to express the desire to learn from whatever source they choose, to expose themselves to whatever writing and ideas they choose, than the ones doing the learning? A letter would test their expository writing and interpretive skills, and, considering we were in the home stretch before summer vacation, would be a powerful and uplifting note on which to finish. In class I distributed copies of the Freedom To Read Statement, readily available on the ALA’s website. Included within it is the affirmation of seven propositions, guaranteed by the Constitution, of an individual’s right to read. After reading the statement and the propositions, the students were given the following assignment:

Write a letter to Banned Books Week. In it, explain that you have just read *Fahrenheit 451* (itself a banned book!) and why you as a student agree with the propositions above. How did your reading shape your interpretation and reaction to these propositions? You can pick one in particular to focus on, or treat them generally. We will be sending these to the American Library Association! Make them GOOD! If you wish,



BANNING BOOKS
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THEM JUST MIGHT.



for extra credit on this project, you may create a video, a piece of poetry, art, anything you feel represents your letter.

My kids were excited. They loved the idea of their letters being sent to an influential, national organization. They loved that they were able to express themselves passionately and wholeheartedly, and that they could do it in their own words. I jumped the gun slightly and, name-dropping all the way, emailed Macey Morales, Director of the ALA's Public Awareness Office, ahead of time. Macey very kindly put me in touch with James LaRue, Director of the Office for Intellectual Freedom. From him, I secured at least a nebulous inkling that their letters (if worthy) might see the light of publication. When I broke that news the next morning, anyone remaining even vaguely ambivalent

on the effort front was immediately pushed over the edge. These weren't just going to be letters in support of intellectual freedom. These were going to be, and I quote, "The. Best. Letters. EVER."

And you know what? They kind of were.

Below is an excerpt from each student's letter. Feel free to tear up, cheer, or do a happy dance. I did, many times. I have to give them credit, they took this assignment and ran with it, producing work beyond anything I could have expected. I am immensely proud of all of them, and it only breaks my heart that now, as I teach in a different school, I don't get to deliver this article and the ensuing praise face to face. But my kids should consider that candle lit. And if they have anything to do with it, it will remain burning brightly for quite some time to come.

Taking away our intellectual freedom turns us into robots. What someone decides to read in their free time should not be dictated by anyone. I have read some of the books that take place on the banned books list and they should not be there. Those books tell beautiful, thought provoking stories and those stories are being taken away from us. Though only a small amount of the many books out there are being banned, the act of banning books in general is just anathema to me, whether it be a handful of books like they do in our present day world, or all of the books like in *Fahrenheit 451*. . . . Humans need to be trusted. People should be able to read something and take what they will from it. We do not believe everything we hear, we live in a world where expressing your opinion with evidence and reasoning is honorable. Let us put these skills to good use and flourish. (Kylie Beausoleil)

I believe books are a form of art that and the writer is the artist. The writer expresses his or her emotions with words and through the book. Many artists for instance, Salvador Dali, Georgia O'Keefe or just nudes in general are vulgar and inappropriate to the viewer; But yet are viewed by thousands of people daily in museums and other public venues. Saying what a writer can and can't put in the book is destroying the creative genius. Sometimes the writer may have to use writing in the context of what happened during that time, and just because it is frowned upon today it doesn't mean that it didn't happen. (Thomas Buonanno)

There are many parallels between our society and *Fahrenheit 451* that could be drawn if groups of people and individuals continue to try to ban books and have authors censor their

writing, which leads me to another one of your resolutions: "Both governmental intimidation and the fear of censorship cause authors who seek to avoid controversy to practice self-censorship, thus limiting our access to new ideas." People that republish *Fahrenheit 451* will take out the words like "damn" and "hell" to allow it on to library and bookstore shelves. It has happened to other books as well, for example, *The Adventures of Huckleberry Finn* by Mark Twain, *Gone with the Wind* by Margaret Mitchell, and *The Grapes of Wrath* by John Steinbeck. Where would society be if those books had been banned? I think that our society would be filled with people that do not appreciate the value of books and the ideas that fill them. I do not think I would like that society. (Grace Callaghan)

Freedom is a precious commodity that is cherished by this nation, so why do we take it for granted? Books are among our greatest teachers, and it is no coincidence that the nation's most cherished literary masterpieces have earned their spots on the list of banned novels. Protecting children from the difficult realities of the world is an exercise in futility. In a media-flooded world, information travels faster than any petition or town hall assembly. We are going to be exposed to controversy at one point or another, so we might as well learn something while we're at it. (Jackson Coyle)

It would be unfortunate if we, as a society, continue to restrict these ideas that provide us with valuable information about the world around us. The perspectives and opinions of everyone should be respected, especially if they are taking time to perfect and share their research, knowledge, and ideas about a subject. Even if people disagree with the ideas



presented, it is important to allow these contradictory works to be accessible to all. As Faber's third rule states, we must have "the right to carry out actions based on what we learn from the interaction of the first two." We must not hinder this process of learning. We must encourage and facilitate the spreading of various ideas and standpoints on a subject, as this is the only way of learning and expanding our mindset. It is our duty as individuals, as a society, to pass the torch of unrestricted ideas and viewpoints to others, and to allow every work, disagreeable or not, to circulate, unrestricted, for all to learn. (Wesley Kane)

By banning books, our society is following in these footsteps of becoming mindless Mildreds. By banning books, those who ban books are closing people off from topics and situations that while uncomfortable, are real events that take place every day in the world. It is important for people to be aware of these events and take action instead of turning blind eyes because they are uncomfortable. By continuing to ban books, we are leading our society towards a numb, mindless world like the one in *Fahrenheit 451*. (Pauleena Kapoukranidis)

While reading some of the resolutions about Banned Books Week it stood out that one of the main reasons against banning book is because it goes against a person's personal freedom. People who want to ban books are often people who stick to the Constitution as their main defense of their beliefs. By doing this, but then turning around and banning books, they are being hypocrites because—as also pointed out by the resolutions—"The freedom to read is protected by our Constitution." People should be uncomfortable. Life hasn't, isn't, and will never be perfect, That's just a fact. By only believing what we want to believe we will also only be living in denial. In the gray boring world.

In conclusion I commend you for sticking up for books because we should not be celebrating banned book week. Every week should just be book week. (Abigail McNally)

I sincerely believe the act of banning books is a tragedy, because our society is so diverse. With the act of censoring these texts, we are also in a sense discriminating against diverse thinking and helping encourage students to have the same thought processes as well as the same way of comprehending different events, situations, and many other situations they may encounter in their lives. Everyone should be given the freedom to decide what they read and to comprehend the text themselves. That is why I believe there should be an end to the banning and censorship of books. Salman Rushdie, a British Indian novelist wrote; 'A book is

a version of the world. If you do not like it, ignore it or offer your own version in return.' The censorship of books should be left up to individuals themselves, primarily students themselves. They should be able to choose whether they wish to enrich themselves and form their own opinions and ideals based upon these literary works. Books should not be censored because of their content. A book is a lens into reality that every person should have the right to look through or ignore. This decision is not something anyone but you yourself, as the reader should be authorized to make. (Samantha Molleur)



BANNING BOOKS IS A WAY OF SUPPRESSING WHAT WOULD OCCUR IF EVERYONE WAS FORCED TO THINK FOR THEMSELVES ABOUT THE ISSUES THAT REALLY MATTER.

We must not allow others to dictate how we express ourselves. If people do not like what you have to say, or do not want to hear it, they can simply not listen. But it is no one's decision to tell another person what they can or cannot read and give attention to. Most people move to ban books because of their harsh language, or vulgar themes. But these things are truthful, they are real parts of life. If you don't like that then change it, work to do better, but don't ignore it. Don't shut it down. Books such as *To Kill a Mockingbird* that cover the heavy themes of racism and prejudice that shadow our country's past are pushed out because people are offended by the language and hard to handle topics. But what they should really be offended by is that that was how people really acted in that time, and even now. This should drive them to want to make society better, not hide the truth of our unfortunate actions. You can't change things if you don't acknowledge the real problem, and that problem is certainly not the books. We have so much to learn from these stories, especially from *Fahrenheit 451*. It shows a grave image of where our society is going if we continue on the path we are on. It is for these reasons and for many more that we must not ban books. We must cherish them and welcome their ideas and what they have to offer our society in terms of helping it grow. These are all things that we should remember when we celebrate Banned Books Week. Banning books



will not solve our problems, but reading them just might.
(Elise Plonski)

Banning books is a way of suppressing the greatness that could occur if everyone was forced to think for themselves about the issues that really matter. This is why Banned Books Week is so important. We have to bring attention to the books that succeed in challenging our idea of “normal.” We have to force people to read and to understand things for themselves in their own special way, whether that understanding be the same, or different than others. We have to force people to become comfortable with being uncomfortable. A world without variety is a boring one. Without different opinions and beliefs, without people thinking for themselves, the world would not progress. Being able to formulate your own opinions is a form of education that creates

brilliance. Without opinions and dreams, brilliance wouldn't exist. And a world where brilliance doesn't exist is a world in which I don't want to live. (Mackenzie Stanton)

The idea that in the future our society could not only ban books, but burn them and the houses that contain them, is an incredibly terrifying thought. I believe that books shouldn't be banned for any reason. It's important to write and read books about controversial topics. The books will live on and people in the future will be able to learn about the issues of today and how the world used to be. They can compare their society with our own and reflect on our actions and on how their actions may mirror ours. Books document the progress of society, whether it be incremental or exponential, and help people to learn from their mistakes. (Baylee Wagner)

School ended for the summer, and I took up residence in Oxford as part of my graduate studies with The Bread Loaf School of English. Right outside my door was the Martyrs' Memorial, where Latimer and Ridley met their ends. I walked by it every day, and every day I whispered to myself “We shall this day light such a candle.” I had helped my kids light their own candles in the darkness of censorship and ignorance. I had helped them understand that the right to read and think unfortunately still cannot be taken for granted, and that they themselves must engage in the daily battle to preserve it and keep it alive. I hope that we as a society do not fulfill the prophecy laid down by Bradbury. I hope that we continue to challenge book banning and confront those who seek to do it. I hope that the generations of readers and thinkers to come

are able to use their eyes and minds however they choose. It is only this way, as my students say, that society will flourish and progress, that art will continue, that stories and words and emotions will continue. So let me push this candle lighting metaphor one step further, and gratefully take it up from all the teachers and librarians that have come before me, for the ones that actually had to fight to get a book on the syllabus or in a school, for the ones that because they fought made my life easier. And let me keep that candle burning for all those that will come after me. It is my fervent wish, yet it is also my fervent belief, that if each and every one of us does this, if each and every one of us champions the freedom to read and think, then, as Latimer said with his dying breath, “it shall never be put out.”



People Behaving Badly, or Can We Get an Adult in the Room?

James LaRue (jarue@ala.org), Director, ALA Office for Intellectual Freedom and Executive Director of the Freedom to Read Foundation.

Shut Up! (self-published 2016; ISBN 978-1-5333-8233-7) is a self-published book about a war between authors Megan Fox and Kevin DuJan and the Orland Park Public Library (OPPL)—except mostly, it isn't. That modest story really doesn't require 651 pages. On this topic, in the words attributed to Ambrose Bierce, "The covers of this book are too far apart."

What does fill the pages, then? There are many words of praise for people hailed as "great conservatives, writers, and pundits" such as Rush Limbaugh, Ann Coulter, and Andrew Breitbart (to whom the book is dedicated). On the other hand, the authors believe that even the people they describe as good, honest, unfailingly truth-seeking conservative talk radio hosts are just too timid to withstand the oppressive, unscrupulous importunities of the liberal left. Welcome, again, to the culture wars.

There's quite a bit about the tactics of Saul Alinsky, a 60s-era community organizer who wrote *Rules for Radicals* in 1971. DuJan both excoriates and emulates Alinsky, who attempted to effect change by sowing mischief, ridicule and mockery. In Alinsky's case the intent was to advocate for the poor in Chicago, and he was by many accounts very successful, and influential culturally. DuJan uses the same tactics—but mostly because he enjoys it so much.

Fox, meanwhile, has ambitions as a conservative commentator and writer—for Glenn Beck's *The Blaze* and WLS talk radio (p. 232). She talks about her visits to the Chicago Field Museum, and her utter disdain for the "silly" idea of evolution. During the course of the book, Fox

has a third child, and there's a lot of writing about Fox and her kids roaming around Chicagoland, playing games, watching movies, and so on.

DuJan goes on at length in many places about another topic: the only good library is literally a poor one. By completely over-the-top contrast, OPPL is a "Taj Mahal." For instance, he describes the

sheer, unadulterated opulence of the soaring glass, sandstone, and sparkling steel structure that looked for all the world like the sort of modern mausoleum befitting the entombment of a sainted pope, a beloved American president, or a pop star of Michael Jackson's magnitude. The Orland Park



Public Library is actually so ostentatious and monumental in exterior scale and scope that it looks like the sort of Frank-Lloyd-Wright-just-married-Liberace-in-Vegas love letter to extravagance in which the self-styled ‘King of Pop’ should have probably been interred (if only he had never went [*sic*] umbrella-toting, baby-dangling, face-disfiguring, career-ruining INSANE in his final decades). (p. 21–22)

In fact, OPPL is a nice library. But it’s not *that* nice.

There are also many pages of railing against the American Library Association (ALA) and the employees of the Office for Intellectual Freedom (OIF). Full disclosure: I am an employee of the ALA and the current director of the Office for Intellectual Freedom, although a relatively new one (I assumed my position in January of 2016). Before then, for almost twenty-four years I was the director of a public library in Colorado, where we created one of the first websites in the state, installed internet computers for the public, ran completely open access to them until forced by state law to adopt software filters, and managed the library for many years after that. I have also been, between my director days and my work at ALA, an avid library user, and library consultant. So, although I have my own biases which I will strive to make clear, I do know something about the topics of public administration, public policy, and the management of public internet access.

But let’s get back to Fox and DuJan. They alternate chapters, and both of them have chatty, lively, and snarky prose styles. In fact, the use of language is the real focus of the book: an appallingly frank exposé of the rhetoric of the alt-right. Fox and DuJan put a staggering amount of time and energy into their battle. What they don’t do is offer anything like a coherent or consistent philosophy, and the results of their work are anything but clear.

What I’ll try to do in this extended book review and essay is:

- provide the essential facts of the case
- call out what I believe to be the underlying issues
- deliver a response to Fox and DuJan’s fundamental allegations, and
- suggest what it all means for libraries.

How It All Began

The story is relatively simple. One day in 2013 or 2014, suburban homeschooling mom Megan Fox, claims that she, her two kids (then aged four and seven), and her friend Kevin DuJan (whom she describes as “A conundrum. Gay. Conservative. Catholic. Republican” [p. 15–16]) went

on an outing to the Orland Park Public Library. OPPL is an independent library district in the village of Orland Park, an Illinois suburb about twenty-six miles southwest of Chicago. The library serves a community of around 56,000 people. Although Fox and DuJan are a little cagey about where they do live, it appears that neither one of them is in fact a resident of Orland Park. But most Chicago area libraries extend borrowing privileges to each other’s residents as a matter of courtesy.

Once at the library, Fox attempted to use a children’s computer to gain access to the internet, and, she and DuJan allege, a “shrieking” children’s librarian warned her off. Local rules forbade adults unattended by children from using children’s computers.

So Fox went upstairs to the OPPL computer area, which she and DuJan call the “Masturbation Lounge.” She doesn’t mean that she saw anyone engaged in physical acts of masturbation there. She just means that she saw people viewing “pornography.” In fact, she writes (p. 36), on her very first walk-through just a few steps from the computer area,

I found exactly what I knew I would. All the authors that are the worst of the worst as far as porn, drug use, deviant behavior and sex were all displayed colorfully and innocently as if they contained stories about girls doing upstanding activities like becoming prima ballerinas or Chief Executive Officers or other contributing members of society and not detailed accounts of how to insert spermicidal foam into southern orifices and masturbate in a bathtub.

That’s quite an accusation. But it’s also a lot to have gathered from a glance and a walk-through.

What *did* she see? Apparently, she saw *exactly what she knew she would*, a report comprising more ginned-up outrage than credibility.

But let’s be fair: later there were indeed police reports of one person who was alleged to have masturbated in front of a patron, and another (or the same person) who exposed himself. I don’t doubt that this happened, by the way; libraries are public places. What I do doubt is that this criminal behavior is, as they allege, the fault of the library director, the Office for Intellectual Freedom, and the American Library Association. Surely the criminal bears some responsibility.

On the basis of this encounter, she and DuJan filed against OPPL not just a complaint of bad customer service, but Freedom of Information Act (FOIA) requests for everything to do with library computers.



So that's the core concern: patrons (not in the children's room, where internet access was limited to children, and was, moreover, filtered) were being "permitted" to view sexual images on the internet. Moreover, they were able to do so without using their library cards to login; rather, they had a pass that preserved their anonymity.

Library Response

The rest of the story then focuses on the responses of the library director and board to the FOIA requests and the original complaint. Generally, these fall into three areas.

FOIA Responses

Fox and DuJan make allegations that the library director stalled, colluded with others in the village and generally acted in bad faith: not providing things in a timely fashion, over-redacting records, and not providing them in the preferred electronic format. DuJan and Fox responded with even more FOIA requests, touching on communications between library staff and others, expenses on board lunches, conference travel, and even, eventually, personnel records. By and by, DuJan and Fox sued OPPL for failure to comply adequately to the sheer number of requests. The result of that challenge was reported under the significantly misleading *Chicago Tribune* headline "Orland Park Library to Pay \$55k to Settle Lawsuits Related to Internet Porn."¹ In fact, pornography was never addressed in the lawsuit or the settlement.

How many FOIA requests were there? "In September, library officials said they had received 133 open records submissions containing 742 distinct requests for documents since the dispute began, mostly from Fox, DuJan or others submitting requests with the same email address."

What did Fox and DuJan want to know? "Many requests sought information on library policies, personnel and spending, but one asked why a trustee wears a similar red outfit at each meeting, whether it was a form of 'hazing' or the library has 'anything in writing that explains why she dresses up as Mrs. Claus every month,' according to library documents."

The settlement didn't involve a finding of guilt, nor did OPPL admit fault for violating transparency laws. But the settlement did call out how such requests were to be handled in the future. Eventually, the library and village got familiar with the laws and processes of FOIA, and responded more fully and consistently. But the requests continued and continue still. By the end, DuJan filed FOIA requests with every public library in the state, and even tracked employees from OPPL to other libraries.

Board Meetings

At various board meetings, moreover, Fox and DuJan came to accuse and protest, filmed proceedings and encounters, and had various encounters during and after board meetings that can only be described as childish confrontational, often on both sides. Judge John J. Tharp, Jr., in dismissing another lawsuit, described one post-Board meeting scene as follows: "The entire incident lasted less than 90 seconds and could have been avoided entirely if either side had behaved maturely and gone about their business rather than provoking the opposing group. Instead, several of the antagonists . . . engaged in almost three years of litigation before settling their dispute."²

Changes in Policy and Practice

One of the goals of Fox and DuJan was to get the OPPL to stop "permitting" patrons to view pornography. Although the book never detailed any kind of comprehensive strategy or recommendations to achieve that, the following actions were at least suggested: getting staff to call the police whenever anybody looked at "porn," the installation of software filters on all public terminals, and a much tighter scrutiny of public behavior. However, the OPPL board did not, in fact, adopt filtering or change their policies. Some internet workstations in the adult area were moved to be more visible to the staff.

That's a lot of bother for, in the end, not much change.

Pornography

One of the persistent and frustrating omissions in the book is the repeated use of a term the authors never define. That term is "porn." Let's take a moment to review the law.

The authors repeat several times that the Supreme Court has stated that there is no right to access pornography, particularly in the library. But the truth is much simpler: there is no legal definition of pornography at all. Pornography just means "appealing to an interest in sex." If judged only by American advertising, pornography is ubiquitous.

The law, set out by the Children's Internet Protection Act (CIPA) and interpreted by the US Supreme Court, is pretty specific about what kind of sexual imagery (and regarding library computers, it only addresses images) is illegal. In order of clarity, illegal imagery falls into three categories:

- child pornography,
- obscenity, and
- harmful to minors.



Since CIPA, school and public libraries must adopt an internet use policy for adults and minors, and use a “technology protection measure” (software filters) in four broad cases, mainly when they accept certain kinds of federal money.

There are many libraries in Illinois that don’t have to filter, and choose not to. Some do, or, as with OPPL, filter children’s computers only. OPPL is not unique. Nor is there any reason to believe, besides Fox and Dujan’s say-so, that people behaved worse at OPPL than elsewhere (the nearest shopping mall, for instance), or that local policies were the cause.

But note that in the same court case that the authors repeatedly cite (*United States v. American Library Association, Inc.*, 2003) the Supreme Court has also stated clearly that if internet filters are in use, adults have the right to direct that they should be turned off for things blocked by the filter, but not falling into the above categories.³

To summarize: according to the highest court in the land, pornography by itself isn’t illegal, but some kinds are. If libraries do use a filter, adults have the right to demand an immediate disabling of it, and expect librarians to comply.

That’s a messy situation. Fox and Dujan blame librarians for all of it.

Now let’s take a closer look at the specific categories of illegal sexual imagery.

Child Pornography

Child pornography involves the depiction of real minors (under the age of 18) committing sexual acts. It is a crime, and a heinous act. Fox is indignant that some librarians don’t have the instant ability to judge child pornography. What’s the problem? It’s “porn . . . involving children,” she writes. Is there something not totally clear here?

Suppose librarians walk past a computer screen where someone is viewing the rape of a child obviously in, for instance, elementary school. Should they call the police? Yes. They should. They have.

But suppose librarians walk past a patron streaming the scene in the movie “Juno” where the title character gets pregnant. Ellen Page, to my eye, looks about twelve in that scene. In fact, she was twenty. “Juno” was rated PG-13. Is it pornography when a film shows (generally) two apparent teenagers (her costar, Michael Cera, was twenty-one at the time) having sex? If a fourteen-year-old is

watching it at the library is it a sex crime? I think Fox and Dujan would say it was. But it isn’t.

Or suppose someone views a manga animated short that shows a naked family bathing together. It’s artwork, which means that no children were actually involved. And in Japan, family bathing is a cultural norm. Is it child pornography? Some have said so. The accusation itself is deeply offensive to people raised in that tradition. It, too, is false.

As is so often the case, snap judgments can be wildly wrong and irrelevant.

Obscenity

Fox and Dujan believe that librarians willfully withhold (for reasons I will get to below under “What’s wrong with librarians?”) their judgment to declare something obscene.

The authors are incensed by OIF’s statement that “librarians are not judges.”

In *Miller v. California*, the Supreme Court declared three tests to find obscenity.⁴ (A good overview can be found [here](#).) Interestingly, not all Supreme Court justices agreed. In the highest court in the land, among the finest legal minds, there were dissenting opinions.

It seems that Megan Fox, in her mind an average person in firm grasp of community standards (although not *her* community), could stroll through a computer center and

reach this complex conclusion in seconds. But the Supreme Court couldn’t, or not unanimously.

If they can’t, how can librarians? That’s what’s behind the OIF’s historic statements. *Obscenity is a finding of the courts*. And in a world after the success of *Fifty Shades of Grey*, it’s not at all predictable.

To summarize: the Miller test is almost impossible for the library to administer. On one extreme or the other things may seem clear, but life is lived in the very muddled middle. Administration of public internet use has its challenges.

Harmful to Minors

“Harmful to minors” is even less coherent as a standard. That is, things that might be OK for adults *might* not be ok for minors. And how old is the minor, exactly? Up to four years old? Then they’re not typing searches into the internet. Are they five to twelve? Then we get to another class



THE ONLY PEOPLE
WHO WANT
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ARE CRIMINALS AND
THE ALA.



of minor, aged thirteen to seventeen years. At that age spread, “minors” are keenly interested in human behavior of people older than they are. Is the “child” of seven truly the same as one of seventeen, when just one year later, he or she will be able to marry, to go to war, and to vote? Of course not. All minors are not equal.

And lest we forget, even minors, of all ages, do have First Amendment rights, as have been repeatedly upheld by the courts. Among these is the right to *receive* information, even when school officials, for instance, don’t like the topic or approach.⁵

It is certainly the case that the internet exposed a lot of previously hidden sexual content in our culture, not just in libraries, but also through now-common smartphones. That’s a technological and social shift. Libraries didn’t precipitate that. But they are one of the many places where people go to access internet connections—often because sometimes people have no other option. I get that society in general isn’t immediately comfortable with the changes. Neither are all librarians. But blaming librarians for a failure to thoroughly manage the internet and human libido is like blaming firefighters for a volcano.

Filtering

So the internet offers access to illegal imagery. Fox and DuJan seem to think filtering—the technology protection measure called for by CIPA—just *solves* the problem. But ALA’s historic opposition to filtering is based on two key facts:

- No filter completely blocks the three categories of child pornography, obscenity and harmful to minors. Something always gets through.
- All filters on occasion over-block (identifying something as illegal that isn’t). At the OIF we hear many reports of school libraries, in particular, whose filtering is so aggressive that it blocks electronic news sources the library pays to receive. To be fair, often this is the result not so much of the filter as the ham-handed implementation of it by people who aren’t librarians. IT staff flip every switch the software offers, blocking “hate speech,” alternative life style choices, drug use, and so on. In the process, they frequently violate the Constitutional rights of students.

There are other worries. Chief among them is a lack of transparency. Filtering is provided by companies that block content using *proprietary algorithms*. That is, a government agency charged with providing information (the library) has no way to know just what is being blocked, or how, or why. Unless and until libraries come up with their

own filtering software—and software development isn’t a traditional library skill—filtering software will be suspect. Librarians’ suspicion of filters is a good thing, bespeaking an unwillingness to give up the liberty of inquiry for the illusion of safety.

On the other hand, as a library director I had no objections at all to using even “whitelist” filtering in the children’s room. (The continuum is “live filtering,” which interrupts even supposedly secure connections to scan for key words; then the less restrictive blacklist, or a frequently updated list of URLs that will not be displayed; then the most restrictive whitelist, which means one can *only* go to those sites.) I see nothing wrong with building a list of high quality, vetted sites, and only those sites, in an area designed for elementary school kids. It is certainly the case that not all internet imagery is appropriate for kids.

In other areas of the library, however, people use the internet for many perfectly appropriate and Constitutionally protected sources. Librarians need only step in when there’s a problem. And of course, no matter where you are, there will be problems.

Practice

As I mentioned above, I have run public internet access both before and after the imposition of filtering. The truth is, it wasn’t much different. In both cases, most people behaved well, and some people behaved badly. Although confronting misbehaving patrons can indeed be awkward, few librarians simply throw up their hands and say, “anything goes!”

Instead, most libraries do at least three things whether they filter or not:

- Supervise public space. We monitor the building, which is a combination of direct, line-of-sight review, and wandering around in the course of business.
- Investigate complaints. When a patron complains about something, staff goes over to take a look. Incidentally, not all complaints are accurate. I’ve investigated a “porn” complaint about somebody viewing a medical site about vasectomies. People have called “obscenity” what turned out to be women’s Olympic volleyball games. An allegation of someone viewing “bestiality” was in fact a Youtube sheep-shearing demonstration. That said, sometimes people are indeed watching explicit sexual activity, and even very extreme examples.
- Take what seems to be appropriate action. There are times when the viewing of adult sexual activity is disruptive or rude. In such cases, it isn’t uncommon for librarians to tell the patron to desist, or be thrown out



of the library. I'm not sure if such a circumstance would stand up to Supreme Court scrutiny or not. Neither is anybody else.

The Smoking Gun

Now that we have some context of the law and practice of public internet access, let's take another look at OPPL. Did they have a problem? That is, had what Fox and DuJan called "creeps" taken over the library for the non-stop viewing of illegal content?

Based just on the evidence Fox and DuJan present, I think the answer is: Maybe. Sometimes. As I noted above, every library has people who test the limits. Some get away with it. Some get caught. And sometimes a lax environment acts as a magnet for the ill-behaved. But a few random reports over the space of years are hardly proof of a publicly funded peepshow. Fox and DuJan's whole incendiary style is based on deliberate distortion. It's an Alinsky tactic. The authors assert as fact things that are only speculation, and often wrong.

The "smoking gun" at the center of Fox and DuJan's diatribe against OPPL is a claim of the actual viewing of child pornography at the library. The redacted police report is on page 164. A female patron reported to the reference desk that another patron, male, was viewing child pornography.

But the reporting patron refused to leave her name. The staff member reported the incident to IT staff, who upon investigation, saw nothing but Medicare sites. When the patron returned a few days later, the director confronted the patron with the reported behavior. The patron then admitted that something "inappropriate" had shown up on his screen, but it wasn't his fault. That certainly sounds fishy.

According to Fox and DuJan, the staff should have immediately summoned the police upon the first report. But there was no proof of child pornography. There was only an allegation. If the police had indeed been summoned and had indeed shown up, there was no identifiable witness (she explicitly asked not to be identified) and despite their investigation (by both IT staff and director) staff had no direct knowledge of misbehavior (he was seen by them to be looking at medical sites). If the patron had indeed been viewing child pornography, there wouldn't be enough information to arrest anyone, although it might scare the person away. If he were in fact guilty, that would not be a bad thing. On the other hand, if the original complaint were in fact mistaken, staff would then have publicly embarrassed someone who was entirely innocent, and now furious.

Is the problem of people misbehaving by seeking sexy content at OPPL worse than other libraries in the country? Probably not greatly so. But if it were, would that be ALA's fault?

This is where it gets hard to take Fox and DuJan seriously. If someone exposes himself at the mall, do you blame the businesses? If someone robs a store, do you blame the store? Fox and DuJan don't just allege that lax enforcement of public internet use allows people to get away with more than they would otherwise. They claim that libraries actively encourage and promote child pornography—an accusation without evidence anywhere in policy or procedure. Fox and DuJan seem to believe that libraries could and in Oklahoma, they claim, *do* stamp out the viewing of pornography altogether. In Illinois, it seems, it's only the ALA that stops them. That just doesn't seem very likely.

Calling the Police

But Fox and DuJan often contradict themselves. On the one hand, they have no patience for the failure of librarians to call the police. In fact, Fox in particular believes that no one in a public space, or anywhere online, should have any expectation of privacy (p. 34). The only people who want confidential internet service she says, are "criminals and the ALA" (never mind folks who are doing electronic banking, international business, or are trying to steer clear of estranged ex-husbands).

Yet DuJan doesn't have much good to say about police, whether in Orland Park or greater Chicago. Fox (p. 528) found them completely unresponsive when she reported death threats against her and her children. I believe that she got those threats, by the way. As we know from recent cases (Leslie Jones's Twitter harassment, for instance), such frightening and uncivil displays are all too common, a part of the coarsening of our public lives.

Trust the police? Don't trust the police? Call them but don't expect results?

What's Wrong with Librarians?

Another internal contradiction is Fox and DuJan's insistence that they love libraries, but completely dismiss the values of librarianship. Fox on page 208: "The Freedom to Read Statement, and the Library Bill of Rights often contradict local ordinances against lewd behavior and indecent exposure in public. All of it is a bunch of hooley. . . . A bunch of tattooed social justice warrior librarians sitting around making up policies while comparing eyebrow piercings does not a Constitutional Convention make."



THE LIBRARIANS [IN 1985] WERE HORRID, AS LIBRARIANS USUALLY WERE BACK THEN (AND SHOULD BE).

The problem, DuJan writes (p. 483) is that “people all the time are heard to say, *I haven’t thought about the library in years. I forget it was even still there. Who goes there anymore? The library has become the place for creeps to hang out and watch porn. Why are tax dollars paying for that?*”

Of course, the Library Bill of Rights does *not* contradict local ordinances—unless they contradict the First Amendment. And people are not “all the time” heard to say what DuJan imputes to them. This is just more alt-right rhetoric, invented from whole cloth.

DuJan concludes: “To stay relevant and ‘exciting,’ the ALA seems to have arbitrarily decided that sex needs to be pushed hard nonstop in libraries whether communities like or want that or not.”

Further, DuJan says (p. 485) “the idiots who work at the ALA . . . are the dumbest people on the face of the planet.” In fact, regarding ALA and the OIF, he wonders if “perhaps these people are all evil, sick, serial child abusers who enjoy harming and sexualizing children and actively creating dangers for kids in public libraries with their warped policies.”

DuJan isn’t sure we need library buildings or librarians at all. He says (p. 482) that “while a fancy library is nice to have in a town . . . a village would save a fortune by setting up downloadable eLibraries.”

So we may conclude that Fox and DuJan don’t approve of today’s standards of librarianship as promulgated by ALA. What should librarians be doing instead? Fox on page 603: a librarian should be “someone who protects kids, keeps order, is stern when she needs to be, and doesn’t let the strife intrude into the quiet of the library.”

On the cover of *Shut Up!* is an unpleasant stereotype of a librarian with the bun, the glasses, the sweater, the pursed lips, the finger to mouth. (She’s holding a copy of Alinsky’s *Rules for Radicals*.) But the surprise is that this is how both authors think librarians *should* be, a return to the golden era. Fox reckons that would be 1985, pre-internet, when “it was all good”(p. 71). Earlier (p.

68), Fox discussed her childhood use of the Palos Hill library where “the librarians were horrid, as librarians usually were back then (and should be) and would brook no disobedience of their rules.”

But remember that when Fox encountered just such a librarian who tried to sweep an adult from internet terminals in the children’s area, Fox filed a complaint against her. What they say they want was exactly the thing that got this whole ball rolling.

Substantive and Respectful Public Discourse

I’m going to suggest that there’s another problem, larger and more serious than a concern about the use of public computers to view sexual imagery. It’s not Fox and DuJan. It’s not ALA. It’s the loss of civil and civic discourse, and the barely concealed attempt to unravel public institutions.

To quote again from Judge John J. Tharp, Jr.,

“From the information already at issue in this case. . . the behavior of some of the partisans in both camps bears little resemblance to the sort of substantive and respectful public discourse that should ideally characterize debates about important public policy issues and instead exemplifies the sort of juvenile tactics one would expect to see the antagonists in a schoolyard playground argument employ.”⁶

So let’s scroll back to the beginning. Members of the public come to the library and see something they think is out of line: in this case, the viewing of graphic sexual imagery.

Let’s lay out the ground rules:

- Everyone should try to follow the law, both people charged with running the library and the people using them. (Note that sometimes the laws are themselves a little unclear or self-contradictory.)
- It’s reasonable for the public to make a complaint when they think it’s justified.
- Some complaints *are* justified, if not all of them. Complaints should be promptly investigated.
- Regarding the use of public internet terminals, all libraries should have a clear statement of appropriate use. They should also have a policy about appropriate patron behavior. (OPPL had both.)
- If they have to, or choose to, take federal erate money, libraries should filter, but only for graphic sexual imagery, and only with software that can be turned off, as the Supreme Court has said.



- Whether they filter or not, librarians have the obligation to oversee public space.
- Anonymous library use and the destruction of internet use records is a best-practice way to preserve individual privacy. Some criminals will benefit. But so will the majority of law-abiding library users. (And for those alt-right readers: apply the same logic to gun registration.)
- Libraries should be open and transparent according to the law. That means open meetings, responsiveness to citizen comments and concerns, and timely response to FOIA requests. FOIA can be used to excess, and even abusively. At that point, we can't expect public institutions to be both transparent and efficient.
- Library officials and staff should be courteous and welcoming.
- Decisions about policy and practice should be based on thoughtful and mature consideration of the law, the facts, and both the library and community values.

Most of these things are a matter of law. But notice that these are the responsibilities of government. What are the obligations of the citizen?

Is it too much to ask that people should begin with courtesy and charity? Fox and DuJan would no doubt say that they don't have to and nobody can make them. That's true, too. But it's the argument of a two-year-old. "America is one of the only places on Earth where ridiculing and publicly condemning public officials is not 'defamation,'" claims a jubilant DuJan (p. 481).

I don't want to excuse the times when OPPL board and staff may also have been less than courteous or forthcoming. As I say, library officials and staff should be welcoming and polite. They need to follow the law. But it's also clear that Fox and DuJan opened a dialog with the library that began with accusations and demands. After that, well, DuJan's avowed intent to say whatever gets a rise out of the government makes him an utterly unreliable reporter.

Moreover, I can't help but think the sheer, litigious drama of the years-long battle was high in emotion and low on results. Fox and DuJan did their all-out best to damage the reputation of the library not just by exaggerating the

level and frequency of patron misbehavior, but by digging up and fanning nasty interpretations of older library issues, launching attacks against library staff members on social media, and ignoring the profoundly good work OPPL does in the promotion of child literacy through programs and storytimes. That kind of collateral damage had nothing to do with their original complaint. They end by accusing librarians of being sex criminals.

To what end? To establish a sharper definition of pornography? To force a library of a community in which they did not reside to adopt broad internet filtering? To change the policies of the library? They didn't accomplish any of those things. Their achievement, finally, seems entirely corrosive.

Many librarians these days are working on civic engagement, on the attempt to foster meaningful conversation among citizens about issues that matter. Attack and defend is one kind of dialog, and it's very much the realm of today's politics. But like Judge Tharp, I think that serious matters might deserve a little dignity and mutual respect, a little more listening on both sides.

Is it reasonable to want to have a public discussion about the appropriate uses of public computers? It is. Is it reasonable to wonder about the use of FOIA to move from a legitimate interest in government transparency to the politics of personal destruction? Yes.

When discourse devolves to name calling, willful distortion, and the assumption of evil, we have gone too far. We're no longer listening to each other, and we're no longer

acting like responsible citizens. We are behaving badly. Sometimes we need an adult in the room.

Should You Buy This Book?

For several months, *Shut Up!* has been marketed via social media to a variety of lists populated precisely by the people the book attacks. It's a curious strategy: send spam (unwanted solicitations of commercial transactions) to people your product calls idiots and criminals. But the marketing does something clever: it alleges censorship of this book by ALA. Are you obliged to buy this book or face the charge?



THE AUTHORS
ASSERT AS FACT
THINGS THAT ARE
ONLY SPECULATION,
AND OFTEN WRONG.



According to Fox and DuJan, the answer is no. “No books are really ‘banned’ in America today!” (p. 427).

The only time censorship exists is when a government body silences the thoughts or opinions of certain people, doesn’t let them speak, doesn’t allow a book to be published, threatens people with arrest or other punishment because of their unpopular opinions, removes content from the internet, files a lawsuit to chill First Amendment protected speech, etc. No library has the power to “censor” any book or prevent it from existing.

Ergo, if you don’t buy the book, you’re not censoring it. Take it from the experts.

But that isn’t the definition of censorship as used by ALA. Rather, we talk about the deliberate suppression of information. That’s something worth keeping our eye on.

Is the book a good buy for your library?

Shut Up! falls well within the rhetorical genre of Limbaugh, Coulter, and other right-wing media darlings, meaning that it’s long on accusation, and even longer on absurd conclusions. If your community has an appetite for that, it will probably enjoy this, too, despite its meandering and often tedious length. University libraries tracking the rise and fall of that movement may find it a representative period piece. If you work for a library school studying the perceptions and challenges of the public library, and the adoption of the internet in American society, it’s a relevant case study. If you’re in the vicinity of Chicago and Fox and DuJan’s friends (if they have any *residing* in your community) are clamoring for the book, it won’t kill you to buy a copy, if your distributor carries it. But whether you do or don’t, it’s of little consequence. Ultimately, *Shut Up!* is a terrific example of people behaving badly. Not that we need more of them.

Notes

1. Lauren Zumbach, “Orland Park Library to Pay \$55K to Settle Lawsuits Related to Internet Porn,” Chicago Tribune, March 19, 2015, www.chicagotribune.com/suburbs/daily-south-town/news/ct-sta-orland-library-settle-st-0320-20150319-story.html.
2. Order, *Bittman v. Fox*, No. 14C 08191 (N.D. Ill. May 16, 2016), <https://casetext.com/case/bittman-v-fox-2>.
3. *United States v. American Library Association, Inc.*, 539 U.S. 194 (2003).
4. *Miller v. California*, 413 U.S. 15 (1973).
5. See *Counts v. Cedarville School District*, 295 F. Supp. 2d 996 (W.D. Ark. 2003).
6. Order, *Bittman v. Fox*.

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Ethics and Values in Librarianship: A History

Author _ Wallace Koehler

Publisher _ Rowman & Littlefield, 2015. 292 p. Cloth. \$80.00.

ISBN: 978-1-4422-5426-8

Reviewer _ Martin Garnar, Dean, Kraemer Family Library,
University of Colorado, Colorado Springs

“The thesis of this work is that the ethics of librarianship and its practice are not fixed and constant.” With this sentence, Wallace Koehler opens his masterful book on the history of library ethics and values, and it marks the start of his argument that our profession’s core values are not as enduring as we would like to believe. Reaching back well before the rise of librarians as a distinct profession, Koehler aims to trace the development of core values by looking at specific roles and responsibilities of librarians throughout history. However, there are times when the historical focus of the book obscures the main thrust of examining the professional ethics and values of librarianship.

The book is organized around themes related to the ethics and values of librarianship, and explores the history of each theme individually in each chapter. Some of the themes have a clear connection to ethics and values, such as “Libraries and Ethics” (chapter 1), “On the Freedom of Expression, Intellectual Freedom, and Their Control” (chapter 5), and “Libraries and Democracy” (chapter 6). Other chapters, such as “Classification” (chapter 3), are introduced with a few paragraphs on the connection to ethics before diving into the subject matter, while the “Love of Libraries and Advice on Library Formation” (chapter 9) just launches into the topic without making a case for why this subject is included in the book. Having said that, each chapter provides an excellent history of its subject matter, even if there appears to be an occasional overdependence on the same sources (especially Justus Lipsius, Edward Edwards, and James Kirkwood) for the historical information.

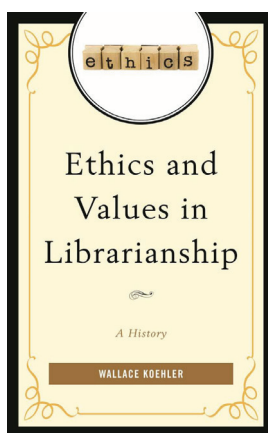
Koehler is at his most compelling when he outlines how the current core principles of the library profession have changed over time. He lays the foundation for this

work in the first chapter by establishing the definitions for “library” and “librarian” while also setting the scope for the range of professional ethics and values, compiling a list of thirty items that captures the many concerns of contemporary librarianship. Some later chapters, in addition to the ones mentioned above, focus on specific aspects of ethics and values, including “Stewardship and Service” (chapter 2) and “Intellectual Property, Copyright, and Fair Use” (chapter 7), while others look at broader topics in the field, such as “On Public Libraries” (chapter 4) and “Qualifications of the Librarian” (chapter 8). The chap-

ter on public libraries spends most of its time examining the history of the institution, but includes a few paragraphs near the end to tie it back to ethics. Likewise, while the qualifications of librarians are of major importance to the role they play in the promotion and defense of the professions ethics and values, the related chapter is largely concerned with historical opinions on the librarian’s role and does not always take the necessary step to demonstrate how those opinions informed the current (or even historical) role of librarian as related to ethical concerns. “New Conditions and New Principles” (chapter 10) is intended to provide an overview of current trends and future issues, though the author’s

approach of grounding each topic in its historical context occasionally distracts from the future-looking theme of the chapter. The aptly named “Concluding Chapter” (chapter 11) attempts to pull all of the possibly disparate themes into a coherent argument and does an admirable job, in some cases surpassing the previous efforts in individual chapters of tying the content to professional ethics and values.

In addition to the thematic confusion noted above, there are some structural flaws in the book. Early in the





chapter on classification, a paragraph repeats two sentences almost verbatim, as if competing drafts of a section were both included in the final version. While not as obvious, there are other points in the text in which it seems that a less-than-final version of the text survived the editing process. As a result, there are digressions and repetitions throughout the book that occasionally dull the edge of Koehler's arguments. As mentioned earlier, some of the topics included in the book have at best a tenuous connection to library ethics. Classification is a good example. While the Code of Ethics of the American Library Association does refer to classification when it states in the preamble that librarians "significantly influence or control the selection, *organization*, preservation, and dissemination of information" (emphasis mine), the level of detail that Koehler devotes to the minutiae of classification schema seems out of place in a book focused on ethics and values. In the same vein, the inclusion of lengthy quotes from standards, laws, and other documents, especially in the case of the untranslated (from Spanish) legal qualifications of Argentinian librarians that exceeds a page, creates roadblocks for the reader that impede comprehension of the main themes. Many chapters include long lists or bibliographies that would work better as footnotes, but

their presence in the main body has a similar effect on the argument's flow. Though Koehler makes a valiant effort to demonstrate why each topic is central to the ethics and values of the library profession, it occasionally feels like a well written article on an otherwise unrelated topic was crammed into the book for added heft. The chapter on the love of libraries is a particularly good example of this issue.

Ultimately, this book fills a gap in the library literature, as there is no comprehensive book on the history of professional ethics and values. Despite the occasional foray into topics that would make more sense in a general history of the profession, this book provides a much-needed historical overview of the origins and development of librarianship's key values. Readers will learn that many of our core values and ethics are relatively recent discoveries, but will also be convinced that these values are rightly prized for their centrality to contemporary librarianship. Any institution supporting library and information science programs should add this to their collections, along with libraries with professional collections focused on our ethical principles. Should a revised edition address the concerns noted in this review, this book is clearly destined to become the definitive work on the history of professional ethics and values in librarianship.

Free Speech: Ten Principles for a Connected World

Author _ Timothy Garton Ash

Publisher _ Yale University Press, 2016. 491 p. Cloth (also available as ebook). \$30.00.

ISBN: 978-1-78239-031-2

Reviewer _ Jennifer Ruth, Portland State University

Timothy Garton Ash is a diehard liberal cosmopolitan. He recently called the Brexit vote "the biggest defeat of my political life," adding that the day of the referendum "was almost as bad a day as the day of the fall of the Berlin Wall was good." Garton Ash's formative years as a journalist and writer were spent covering Eastern Europe under Soviet domination. The fall of the Berlin Wall looked like the dawn of a world where people no longer needed fences to make good neighbors. Reinforcing this impression was the fact that the same years of the Soviet Union's collapse were also witness to the rise of the global Internet. People everywhere could connect regularly and often intimately without the hurdles and hassles of visa applications and airplane tickets. Why is it, then, that in 2016 Garton Ash needs to publish a book entitled *Free Speech: Ten Principles for a Connected World* and that this book would be considered both timely and urgent?

Free Speech hits bookstores as a wave of illiberal nationalism sweeps Europe and the United States. Like most liberal cosmopolitans, Garton Ash did not see this coming but that doesn't make his prescription for today's ills any less worthwhile or necessary. "I can discern no better way," Garton Ash writes, "to proceed towards a more universal universalism—essential if we are to live together well in this twenty-first century world-as-city—than to spell out what we believe are the standards that, were they applied by all, would be best for all" (p. 4). Part 1 of *Free Speech* sketches the global context in which we must fight for free speech, the best ways to go about it (hint: the less one resorts to the state to police speech, the better), and the reasons why the battle matters in the first place. Part 2 is the "User Guide" in which Garton Ash elaborates upon the ten principles devised by himself and a team of colleagues, principles like "We—all human



beings—must be free and able to express ourselves, and to seek, receive and impart information and ideas, regardless of frontiers” (number 1) and “We defend the internet and other systems of communication against illegitimate encroachments by both public and private powers” (number 9).

Nick Cohen writes in the *Guardian* that Garton Ash “has two virtues, which are rarely combined”—“the ability to theorise and the ability to work.” Public intellectuals draw us the big picture but few of them take the time to do the yeoman’s work of filling in all the details. Not Garton Ash in *Free Speech*, which has been called encyclopedic and exhaustive. The breadth of coverage of incidents involving free speech over the last few decades can be overwhelming but I enjoyed reviewing noteworthy episodes (the “Innocence of Muslims” video posted on youtube and triggering violent protests, for example) and learning about others for the first time (the defamation suit brought and lost by Holocaust-denier David Irving against Deborah Lipstadt, for example). To further ensure that he is doing everything he can to advocate for free speech, Garton Ash has also worked with countless others in an impressive number of countries to launch the website freespeechdebate.com. Indeed, the book is perhaps best viewed as a companion piece to this global and interactive digital project.

As signaled by the phrase “connected world” in the subtitle, *Free Speech: Ten Principles for a Connected World* spends much of its time exploring the possibilities and challenges created by the Internet. It is indisputable that the Internet has exponentially enhanced the ability of individuals to express themselves, the ability to spread and receive information widely, and the ability to demand transparency and accountability from various societal actors, public and private. Each of these has a flip side, of course, that Garton Ash considers carefully: “free expression” on the Internet extends to trolls and bigots as much as to everyone else; the ability to spread and receive information widely is also the ability to spread and receive disinformation wildly; and greater transparency and accountability can generate mistaken assumptions and recklessly destroy lives. (Garton Ash’s experience with the Stasi and the vast records it kept on the German Democratic Republic’s citizens, recounted in his 1997 book *The File*, gave him unique insight into the way “surveillance” rarely delivers an accurate, contextualized picture of a person or situation.) Garton Ash is a strong believer, however,

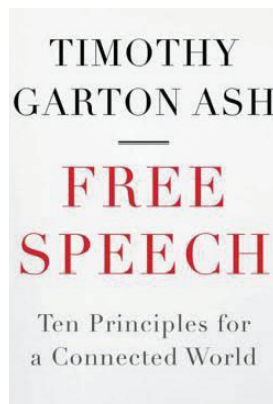
that on balance more speech and more accountability will translate into a healthier “city-planet.”

Most of the time I am happy to believe this, too, but there are moments when Garton Ash is unable to smooth away a wrinkle he has conscientiously drawn to our attention. Take the way the internet facilitates subcultural silos as much as it facilitates connections among diverse groups. Due to the search engine’s capacity to learn from our viewing history, we are increasingly fed a diet specifically targeted to our demographic and are less and less likely to be exposed to what other demographics encounter. To

assuage the fears of balkanization that this provokes, Garton Ash cites a small study that found that we actually want to be exposed to new viewpoints. That a group of people surveyed said what we all think we should say—*yes, I want to learn something new!*—does not instill great faith that we will reverse a trend that is baked ever more thoroughly into the system every time we browse the web.

I also found myself wondering if Garton Ash’s long history covering totalitarian repression during the Cold War has rendered him more vigilant at ferreting out political and ideological attempts to control speech than attempts stemming from powerful economic interests. I hasten to say that he is keenly aware that the categories of state and market are both different and much more intertwined than they were in the days of yore and he stresses that the biggest threats to individual free speech arise when government and corporate interests work in tandem. Nonetheless, Garton Ash seems more comfortable when calling out the authoritarian’s bullying than when he has to consider the less familiar paradoxes of a global economy so interdependent that liberal states can be found to cater to illiberal ones of their own accord.

During the Cold War, the liberal side was also the more prosperous one. That is no longer a foregone conclusion, making for a geopolitical situation in which actors that once reliably followed the liberal bible can no longer be counted on to do so. In 2016, for example, a South Korean media company cancelled performances of Shen Yun, a dance and acrobatic organization whose founder is active in Falun Gong which is, in turn, highly critical of the Chinese Communist Party. When Shen Yun sued in Korean court, the judge ruled against the media company, as would be expected with any blatant breach of contract. Yet when the media company later disclosed documents from the Chinese Embassy threatening economic retaliation if Shen Yun were allowed to perform, the court reversed its





decision. Because the Chinese market for Korean entertainment is so huge and any losses in this market so financially damaging for the industry, China's ideological interests were allowed to derail the normal course of rule of law. We are on new terrain here—this is not a Chinese dissident being thrown into a Chinese jail. This is the Korean court effectively authorizing censorship in Korea on behalf of China in order to protect its own national economy.

Still, China is very much on Garton Ash's radar and he will develop a nuanced articulation of the implications

for free speech when the authoritarian country is also the one holding the purse strings in short order, I'm sure. In fact such work is already being done on his website, free-speechdebate.com. If you look at the site's China pages, you will find "Hong Kong: two systems, one country?," an article identifying the multifaceted approach Beijing is using to bring Hong Kong to heel. "The crux of the matter, therefore," Samson Yuen and Kitty Ho write, "is not simply an authoritarian grip on press freedom, but very likely a total paradigm shift."

Data and Goliath

Author _ Bruce Schneier

Publisher _ Norton, 2015. 448 p. Paper. \$17.95. ISBN 978-0-393352-17-7

Reviewer _ John Mack Freeman, Marketing and Programming Director, West Georgia Regional Library

It seems like barely a week can go by without some bad news related to data and information security making the news. Whether it is Home Depot, Target, or LinkedIn having their user data hacked and stolen or new revelations about the NSA's mass surveillance programs or changes to Facebook or Instagram's user policies that throw individual privacy into turmoil, people are becoming gradually more aware that their information is at risk and that their data is a commodity being used on the worldwide stage.

In the 2015 book *Data and Goliath*, Bruce Schneier presents a dark view of where this information usage is taking American society while presenting a list of policy proposals and recommendations to protect the privacy and security concerns that are at stake.

The book is divided into three sections. The first describes the basic state of the world of information as it existed at the time of writing. Schneier points out that everyone is producing more data than ever before and that companies and governments are mining this data in ever-expanding ways. The second section details "What's at Stake," noting that political liberty, commercial fairness, competitiveness, privacy, and security are all areas that are touched on in this growing world of big data. The third section details the author's specific proposals for governments, corporations, and individuals to undertake to fight the pernicious rising tide of data collection and usage.

As would be expected from a source like Bruce Schneier, this book has a heavily one-sided appeal. Schneier is an expert cryptographer and security technologist, a Fellow

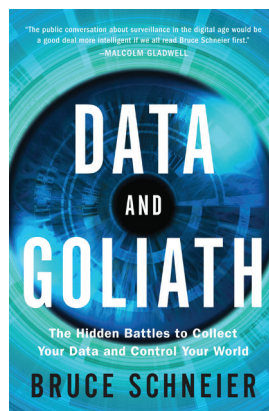
at Harvard University and a board member of the Electronic Frontier Foundation. He is widely well-regarded and even at one time briefed members of Congress on the unpublished leaked Snowden documents. The book is deathly opposed to all NSA mass surveillance for any reason and under any circumstances. Its author holds the NSA document leaks of Edward Snowden in incredibly high regard, referencing the fugitive whistleblower numerous times throughout the book. And the text is

only slightly more receptive towards private businesses working in the big data space.

Throughout the book, government and corporations are always portrayed as the bad guys out to spy, surveil, steal, and hoodwink data out of private citizens whenever possible for the nefarious purposes of security that won't make society safer and to attempt to make money.

At times, the tone of *Data and Goliath* comes off as strident and preachy, and it too often assumes that the reader fully agrees with the author about the underlying issues. Indeed, by the third section of the book, any attempts at even-handedness have completely

dissolved into a completely unrealistic list of policy positions that would radically reshape the national security and technology business environments in large and largely unforeseen ways. Even people who believe in privacy as a fundamental right may have a hard time swallowing all of the items proposed, particularly for the United States government and corporations. A small sampling of these proposals include practically disbanding the National





Security Administration, creating government sponsored social media commons to wrest control away from private companies, making it more expensive to collect and use data (effectively shuttering the major profit avenues for most search engines and social media companies), making all companies that collect data fiduciaries, and protecting whistleblowers by allowing a “conscience” defense. While these and the other recommendations Schneier makes would probably assist in making data more secure and privacy more fundamental, the effects they would have would have enormous ripples that are not examined nor considered in the course of this book.

The book’s argument is particularly weak when dealing with the corporate side of big data as it tends to undersell the benefits of data aggregation to the average consumer. While advocates may wish that the average consumer were more concerned with their own privacy, the growing ubiquitousness and ease of signing up for new services by “Sign[ing] in with Facebook” and other efforts that reduce friction in the online space in exchange for some personal information shows strong evidence that convenience is still more paramount to the average contemporary technology user. The text never seeks to grapple with the idea that people may still choose convenience over privacy even when fully informed, and it never seeks to explore what to do then.

Through no fault of the author, this book also has issues with timeliness that have already made it feel dated. For instance, although published in 2015, the author refers to Democratic Senate committee chairpeople (the Democratic Party lost control of the US Senate in the 2014 midterm elections). At another point, Schneier muses that many technology companies were worried about “significant loss of foreign sales” (p. 122) in 2013 after information regarding the NSA’s hacking of US computer equipment became well known, specifically citing Cisco Systems. However, it does not seem to have injured Cisco too badly, as their stock price is 60 percent higher today than it was in the fourth quarter of 2013. While this is the nature of the publishing industry when commenting on current events, it does serve to weaken the claims put forth in several places throughout the text.

In other moments, though, the author seems to be misleading the reader. In chapter 14, he writes about how the right to be forgotten has come up before the European Court of Justice as it relates to removing information about certain individuals from search results. Schneier specifically referenced that “politicians, doctors, [and] pedophiles” (p. 202) demanded that their information be

removed from Google with the implication that the information was immediately removed. Except, the right to be forgotten does not typically work that way; anybody can request their information be removed, and then it is up to the search engine and the courts to decide whether they will or not. Of the three mentioned, I can only really imagine the doctor having any large chance of success. In other sections of the book, Schneier makes assumptions based on limited information, particularly regarding government surveillance, and these assumptions always tend toward the negative and Machiavellian.

Additionally, it is difficult to ascertain who the audience for *Data and Goliath* is. On the one hand, those who are interested in privacy, big data, and other information technology concerns will already be intimately familiar with most of the examples and issues that Schneier raises. On the other, those new to these issues will likely find themselves overwhelmed with a flood of references and examples that are minimally dealt with. While the book feels like it was written for a popular audience, it fails to allow the reader to come to their own conclusions about the issues on the table.

The worst part is, Schneier is not wrong. He does point out dozens of examples where consumer data has been stolen and the businesses who let it leak were never punished. He points out that society does not have any good evidence that the NSA’s mass surveillance policies have made the country any safer. He provides numerous examples of when information is kept too long, handled carelessly, not adequately protected, sold to the highest bidder, and when it does not adequately protect the interests of the average person. Just this week, a predictive policing program in Chicago like the ones Scheneier writes about was shown to have had zero effectiveness over the last three years. But the unrelentingly negative take on the modern data environment can make even those who are strong privacy advocates (like this reviewer) feel like Schneier’s take is too bleak and his recommendations go too far.

Overall, *Data and Goliath* is a one-sided take on the way that data trends are evolving in the technology landscape. While it does a good job of portraying numerous ways that technology companies and governments have failed in this new world, it lacks nuance and a willingness to understand that there is an opposing side to this argument. While there may be great value in a popular nonfiction portrayal of these issues to increase the knowledge surrounding these concerns in the general public or to serve as a primer for those who want to get more involved, this book simply is not it.



Surveillance in America: An Encyclopedia of History, Politics, and the Law

Editor _ Pam Dixon

Publisher _ ABC-CLIO, 2016. 2 vols. Hardcover. \$189.00. ISBN 978-1-4408-4054-8.
E-book available (978-1-4408-4055-5).

Reviewer _ Rosanne M. Cordell, Northern Illinois University.

Dixon (*Online Privacy: A Reference Handbook*) has compiled 115 entries by over forty authors with almost 70 primary documents related to government surveillance and privacy. The resulting encyclopedia is an excellent starting point for high school and undergraduate students researching topics in this area. The preface is unabashedly for complete transparency in government surveillance, but the entries attempt a more balanced approach to their topics, providing the historical, constitutional, legal, political, and social contexts for the actions and issues covered. Volume 1 includes all entries, a chronology, and a listing of entries by broad topic with their relevant primary documents. These include “Agencies and Organizations”; “Antisurveillance Programs and Activities”; “Court Rulings”; “Government Oversight”; “Laws and Regulations”; “Privacy Rights”; “September 11 Terrorist Attacks and USA PATRIOT Act”; “Snowden’s Release of NSA Surveillance Information”; “Surveillance, Criticism of Practices and Programs”; “Surveillance, Defense of Practices and Programs”; “Surveillance—Industrial Complex (Government-Corporate Partnerships)”; “Surveillance Programs and Initiatives”; “Surveillance Types and Practices”; and “U.S. Constitution.” This reader’s guide would allow students to read beyond a single article in a targeted manner to gain the insight needed to do a creditable job of research. Volume 2 includes all the primary documents and excerpts in chronological order, a bibliography, and the general index.

Most entries are one to four pages in length and are followed by a list of “Further Reading.” Having the primary documents appear in a separate volume allows one to go between the entries and their documents easily. Some entries might have required a bit more length than was allowed (why does “Alien Registration Act” end with a mention of its having been amended several times without briefly describing the amendments?), but, generally, the entries are sufficiently detailed to educate their primary audience without overwhelming them with technical information. Even technology-related entries are

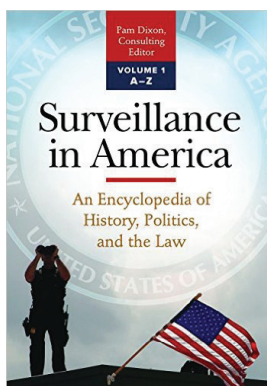
approachable by undergraduate students who are not computer science majors.

The editor claims that government surveillance as an issue “exploded into modern consciousness with the revelations that Edward Snowden made about the activities of the National Security Agency in 2013.” While Snowden’s leaks may have precipitated the most recent “explosion” of this topic in the public eye, the historical information and cases included show that the balance between security and privacy has long been a precarious one and a matter of contention in the United States. Indeed, the chronology and the list of primary documents indicate that much was occurring in this field long before Snowden’s revelations.

The chronology begins with the 1761 James Otis’ writing of “Against the Writs of Assistance” and has four pages of entries before 2000, with almost half of all the primary documents covering this same time period. Privacy has consistently been an issue in the United States, and concerns that rose to legal challenges long predated current technologies. The vast amount of data that now can be collected and distributed (or leaked) is unprecedented, but it is important for students to understand that the principles involved are not new and actually predate the formation of this nation. Keeping the application of the principles involved in ensuring privacy relevant to current threats and weigh-

ing privacy against security also have long histories. Each new generation believes it has invented a new world; it is the job of historians to remind them that much has preceded current events that is relevant to their understanding. The reader’s guide listing of related entries, chronology, and volume of primary documents invite the student to delve much deeper into the topic of surveillance than the simple alphabetical arrangement of volume one would suggest. I hope many readers accept the invitation.

Although this encyclopedia is intended for high school and undergraduate students, the general public and professionals in various fields may find it useful to have so much information on government surveillance gathered into one work. Highly recommended.





LIBRARIES

Nassau County, Florida

Two Nassau County parents are outraged about two books their middle schoolers brought home from the school library. The covers look harmless enough, they said, but when the parents saw the profanity and sexually explicit language inside, they called a local TV station. From paragraphs about sex, to drinking alcohol and stripping, the Yulee Middle School parents said they are furious that these books are on the shelves of the school library.

“I have in no way shape or form authorized my children to read such material, I can tell you that,” said parent Brook Todd. Todd has five kids in the Nassau County school district and one at the middle school. She said the books made her uncomfortable.

“I was reading a lot of sexual content and some things that I wouldn’t think high schoolers should have access to,” Todd said.

The two books are titled *TTFN*, meaning ta ta for now, and *TTYL*, short for talk to you later.

“It’s telling kids to rebel against parents. It’s telling them it’s OK to party, drink, cuss and do other obscene things in the book,” parent Billie Thrift said. Thrift said her twelve-year-old daughter brought the books home from school.

“She immediately didn’t want to read it, but she was scared she was going to get a bad grade because she didn’t finish reading the book she checked out,” Thrift said. Thrift said the books are part of the accelerated reading program where students log the amount spent reading and have to take tests on the books.

“Personally, I think this is what’s wrong with children today. It’s books like this and stuff being exposed to our children and it being allowed to being exposed,” said Thrift. Both parents

planned to take their complaints to the district. “I would like them to do away with this. I would like them to somehow monitor what goes into the library,” Todd said.

The parents also said after posting their concerns on Facebook, teachers from the school reached out to them saying they were concerned, too. Reported in: actionnewsjax.com, August 16.

Pasco County, Florida

A review committee’s proposal to remove Stephen Chbosky’s novel *The Perks of Being a Wallflower* from Pasco Middle School will stand, but only for that school, district spokeswoman Linda Cobbe said. A committee of parents, teachers and administrators had recommended that all Pasco County schools stop using a novel that some deemed “disgusting” for its explicit sexual references. A substitute teacher at Pasco Middle School had assigned the novel to seventh-graders in an advanced language arts class.

“The material is disgusting,” said Shauna Hutsell, who filed a formal complaint against the book after her son brought it home. “It needs to be pulled. No other kids should be getting this book.”

A school-based committee agreed with that point. Members suggested that the novel’s message, while good for students with troubles like the protagonist’s, exposed many children to disturbing images and information for the first time. The novel includes detailed descriptions of rape, sex and masturbation.

“You can’t get any argument from me,” principal Jeff Wolff, who has two middle school aged children, told the group.

Four high schools that have the 1999 title took it out of circulation pending the outcome of a challenge at Pasco Middle. Administrators discussed

the issue of whether one school’s materials review panel may make decisions with district-wide implications, Cobbe said.

“We are going to make it more clear and more tight, so there’s no question if it’s a school-level challenge it applies only to that school,” she said. They also plan to require that any books that don’t appear on the district’s list of approved titles go through a review process before it can be bought. Reported in: *Tampa Bay Times*, May 23, 25.

Ada Township, Michigan

Morris Micklewhite and the Tangerine Dress is a children’s book about a young boy who likes to wear a dress to school. He also wears high heels and fingernail polish. Morris finds himself isolated and ridiculed but eventually convinces his classmates that he is just a boy who happens to like to wear a dress the color of a tiger and his mother’s hair and they eventually accept him. The story aims to encourage acceptance and discourage bullying.

But one parent sees something far more sinister. “What the heck is going on?” Lee Markham asked. “This book is not just talking about accepting another viewpoint, it’s promoting another life.”

Markham is a thirty-five-year-old Army veteran who says he was discharged in 2010 after an IED blew up in his face in Afghanistan forcing him to get dental reconstruction. Markham is also the father of a nine-year-old third-grader at a Forest Hills Public Schools elementary where the book was read to class.

“We’re talking about one way to live life, but what about the other way, y’know, sorry to say it, the normal way what’s the benefit of actually adhering to societal norms,” Markham said.

“For one thing, if any of those kids weren’t thinking about wearing dresses, now they are,” Markham said.



But far from pushing any kind of agenda, Superintendent Daniel Behm said the topic was broached by students.

“This book is not part of our typical curriculum but it was chosen with the teacher and the counselor after some students kept raising questions about some people dressed differently,” Behm said.

Behm said the issue is not just about LGBT issues, but about understanding of all cultures in a district of ten thousand students. He said ignoring topics like this one will only keep the school from concentrating on its core curriculum.

“When students ask a question, are teachers sort of saying ‘well, let me get back with you after I write a letter to all the parents to see if I can answer that letter for you’ I think that’s where it becomes, on a day-to-day practical level, a challenge,” Behm said.

The book has won numerous awards and has been recommended by library associations as a way to explore the topic with children. Its author, Christine Baldacchino, said the book is about more than just practicing acceptance.

“I wanted to give a voice to kids who are judged by people like Lee Markham every day just for being who they are. I want these children to know that their focus should be on being happy in their own skin (whether it be wrapped up in a tangerine dress or a pair of denim overalls),” she wrote in a statement.

Markham said he wants an apology and to have the book pulled from the shelves. The superintendent said that while he is glad to be aware that there is a person who might have a problem with this particular book, there is no reason it should be banned from the schools. Reported in: woodtv.com, May 11.

Henning, Minnesota

The Henning School Board on June 1 reversed a staff decision to remove from the district’s one library the award-winning graphic novel *This One Summer*, by Marko and Jillian Tama-ki. The board voted four to two to allow the book back in the library but under the condition that it be housed in a separate section and be available only to tenth- to twelfth-graders. They would also need signed parental permission to check it out.

Superintendent Jeremy Olson, along with the school principal and the librarian, had decided last month to remove the book after an elementary school parent raised concerns with the school about it.

The book, which among other prizes won a 2015 Caldecott Honor award, features two tween girls on summer vacation who lurch between childhood and early adolescence. The girls become aware of serious problems among the adults and older teenagers they encounter. Among the topics: unplanned pregnancy, drugs, alcohol, suicide and oral sex.

Olson had previously said that with one library for 390 students in pre-K through 12th grade, the book wasn’t appropriate. “We didn’t ban it,” Olson said. “We took it off the library shelves.” Reported in: *Minneapolis Star-Tribune*, May 27, June 2.

Rainier, Oregon

A sex education book full of illustrations depicting sexual acts created quite the controversy at a Hudson Park Elementary School in Rainier. Parents said the book was shown to their kids without their permission, and the school consequently pulled the book from library shelves.

The book in question, *It’s Perfectly Normal*, is a children’s book for ages ten and up, that talks all about changing bodies, sex and sexual health.

It includes illustrations about those things, including pages of naked teens and adults, some depicting sex acts and even masturbation.

Officials with the Rainier School District noted the title is on the state approved list of books allowed at the school, but in a letter sent home to parents the school’s principal said they had been inappropriately passed out to fourth graders in the library.

The district said a sixth grade class accidentally left the books out, where a fourth grade class found and read them. School officials added that it was an honest mistake.

However, some parents of those fourth graders said the school’s librarian showed their children the book directly, and even encouraged them to bring it home.

“Inappropriate human development and sexuality books were disseminated to students who had library. Procedures have been put into place to make sure this doesn’t happen again. All questionable books have been pulled from library shelves,” the principal wrote in a letter to parents.

The note went on to say that current policies about what books are allowed in the library were being addressed, and Hudson Park will provide parental notification when sex ed is being covered in classroom, so kids can opt out if they aren’t comfortable. Reported in: kptv.com, April 14.

SCHOOLS Northville, Michigan

Tami Carlone was dismayed when learning her daughter had been assigned to read acclaimed writer Toni Morrison’s book, *The Bluest Eye* as part of Northville High School’s Advanced Placement English course. She objects to the novel’s content, including depiction of a sexual assault. So Carlone filed a request with the district, aiming to have officials reconsider



having the work included as part of the curriculum.

“I feel it’s developmentally inappropriate,” Carlone said. “I don’t feel any child should be required to read it.” That idea inspired her and other parents to pack a Northville Public Schools Board of Education meeting in April.

Board members unanimously approved a committee recommendation that allows parents to choose between the Morrison novel or two other works this spring. “Because of your feedback, we’re giving you a choice,” board President Adam Phelps told the audience.

Officials said the book has been part of the AP English and Composition course since the early 1990s and was slated to be covered later that month at Northville High.

Published in 1970, *The Bluest Eye* revolves around the struggles Pecola Breedlove, a young African-American girl, faces living in Ohio during the early 20th century—including grappling with racial identity and sexual assault.

The request to reconsider using the book in the curriculum, which went to a committee that included a high school administrator, English teachers and other educators, cited the controversial content. However, “following a thoughtful and deliberative process, the committee reached a unanimous decision to recommend continued use” of the book, believing that removing it “would eliminate the opportunity for deep study by our students on critical themes in our society,” Deanna Barash, assistant superintendent of instructional services, wrote in a recent letter to the complainant.

“The rich text, dialogue and depiction of life for African Americans . . . allows our students to explore and synthesize the impact poverty, classism and oppression have on individuals.” The recommendation was

presented to a district committee April 5. Members asked that administrators consider adjusting the committee review and sought a revised proposal.

Throughout the sometimes contentious board meeting many parents and others spoke out about the tough topics covered in Morrison’s book. Several racy excerpts were read aloud. Some, like Carlone, felt the material “glamorized” pedophilia and could affect students.

“We’re citizens concerned about the moral compass of our society and the direction it’s headed,” said Karen Braun, who lives outside the district.

But others advocated the artistic merit of the work.

“Now they have a forum where they can discuss these things happening in our culture,” parent Misty Woods said. “You don’t ban books. You don’t do it.”

Erica Meister, an AP literature student, pointed out that other required reading—including *The Great Gatsby* and even Shakespeare’s *Hamlet*—covered questionable behavior but has not always stoked such ire. “Why are these topics no longer acceptable when they are written about by an African-American female?” she said.

The board’s vote means that AP students and parents can choose between three works that cover themes such as oppression and poverty: the Morrison book, an essay anthology or William Faulkner’s *The Sound and the Fury*, Barash said. In the future, they’ll also have a chance to review which writings identified for students, she said.

Board members said they welcomed the comments from the public. But they also recognized that *The Bluest Eye* had not been challenged before, and considering a ban opens others questions about objectionable material.

“If people ask where we draw the line—that’s a very long list of lines,”

board Trustee Sarah Prescott said. Reported in: *Detroit News*, April 13.

Chatham Township, New Jersey

Libby Hilsenrath came before the Chatham Board of Education July 18 to express concerns over the inclusion of *A People’s History of the United States*, by Howard Zinn, in Chatham High School curricula.

The book presents an alternative view of American history characterized by the influence of an elite minority over the rest of the population.

Superintendent Michael LaSusa said excerpts from the book, not the book in its entirety, have been assigned reading in US History II classes at the high school for at least fifteen years. The book is used in high school and college classrooms across the country.

Hilsenrath read a passage from *A People’s History* in which Zinn writes the US Constitution was not written by “We, the people,” but a group of “fifty privileged, white males whose class interests required strong central government.” Hilsenrath said the book flies in the face of the school district’s commitment to imparting critical thinking skills.

“Given the fact that the author himself, Howard Zinn, says his book is a ‘biased account,’ I would ask the board to consider removing the book from the US History curriculum in the high school,” she said. “Or, alternatively, add another perspective or viewpoint of American history in addition to pure, unadulterated facts in a textbook. If we truly claim to teach critical thinking, not one-way thinking, I think it’s imperative the board review whether or not this book should be included as part of the curriculum.”

Board Vice President Matthew Gilfillan said he would not be comfortable with his children reading the book in



school were it not balanced with another text with opposing views.

LaSusa said the book is counterbalanced by another perspective, that of US History textbooks. “The goal is primarily to teach about perspective, and that textbooks themselves are not necessarily objective works,” he said. “At least that’s the position of a number of historians—that just the mere historiography of a given period has value judgements that authors apply when they are working with the sources that they’re working (with).”

“So the goal with this book and others in all of the social studies courses at the high school is to teach kids how to decipher how authors are putting together sources and how narrative is being created. That’s done with all the works.”

LaSusa said after the meeting that he would use *Lies My Teacher Told Me*, by James Loewen, and a book by Booker T. Washington when he was a social studies teacher at Chatham High School to present alternative viewpoints.

“I think it’s important to expose kids to multiple perspectives and have them understand that primary sources are the critical ingredient for any historian or any critical consumer of information.” Reported in: *Chatham Courier*, July 18.

North Fayette, Pennsylvania

In response to parents’ demands that some books be removed from the West Allegheny High School reading list, about two hundred students have signed a petition asking the district not to use censorship in an attempt to shield teens from problems they may be encountering in their lives.

“You’re trying to protect the children and I see that, but you’re really sheltering them and making them ignorant to issues that actually plague

our society and are relevant right now,” student Renae Roscart, fifteen, said of the parents who had sought the removal of some books.

Renae, of North Fayette, spoke at a school board meeting as she presented the petition, which was circulated among high school students on the last two days of the school year. Signed by 208 students, the petition asks that *The Glass Castle*, by Jeanette Walls, be returned to the reading list in its entirety and that other titles that might be considered controversial remain on the list.

The Glass Castle is about a woman persevering after a dysfunctional childhood and includes graphic descriptions of abuse, including sexual abuse. This year was the first time the book had been on the district’s high school reading list. Concerned about its content, a group of parents requested in March that it and other titles be removed from the list.

District officials responded, saying the reading assignment was altered to require students to read only excerpts from the memoir instead of the whole text.

The change “stole our students’ chance to learn and empathize with the society they live in,” Renae told the school board June 15.

“Reading the full content of *The Glass Castle* could allow a sexually assaulted child or a child with an alcoholic parent to feel less alone and less isolated,” she told the school directors.

In addition to the petition, Renae presented the board with a flier she helped create titled “The Ugly Truth,” which cites national statistics on the number of children directly affected by alcoholism, sexual assault and mental health conditions. It also includes local poverty rates.

“How is this inappropriate for our children when they’re going through this right now? What time could be

more relevant to learn this than when they’re going through it? By cutting these particular things out, you’re pretending that these statistics don’t exist. You are pretending that sexual assault and alcoholism isn’t something that youths encounter. And that is a problem,” Renae said.

Renae’s flier said that “lack of communication” could be contributing to a culture in which rape is prevalent and suicide rates are increasing. In March, the parents who objected to some of the books argued that the content of the books could be the cause of depression and anxiety in teens.

Board president Debbie Mirich indicated the district would look into the matter.

“We always appreciate hearing student voices. It’s always important to us,” superintendent Jerri Lynn Lippert said after the meeting.

West Allegheny serves about 3,300 students from Findlay, North Fayette and Oakdale. The high school has an enrollment of about 1,000. Reported in: *Pittsburgh Post-Gazette*, June 24.

Round Rock, Texas; South Burlington, Vermont

The day before Kate Messner was scheduled to speak to students about her latest novel, *The Seventh Wish*, the author received a troubling message from the school’s administrators: Don’t come.

Though the librarian at the Vermont elementary school had specifically requested Messner’s appearance, the invitation was rescinded when someone at the school grew concerned that students were not prepared to handle one of the novel’s threads, a subplot about heroin addiction.

Messner was dismayed, to say the least. “When we decide a book is inappropriate for a school library because it deals with a tough subject, we’re telling kids in that situation that their



problems can't even be talked about," she said.

The cancellation of Messner's appearance happened on the heels of the Round Rock Independent School District's decision to cancel author Phil Bildner's appearances this coming fall at eight of its elementary schools. A district spokesman said Bildner, who has visited the Texas school district for the past seven years, made inappropriate remarks to students about challenging adult authority during his presentations last year. But Bildner believes the real reason is an objection to some of the books he recommended to students last fall, including Alex Gino's novel, *George*, which describes a fourth-grade student's gender transition.

After Messner blogged about the withdrawal of her invitation to speak in South Burlington, an elementary school librarian from a different state e-mailed her to say she had *The Seventh Wish* on her order list, but removed it after learning it addressed opioid addiction. "Maybe there are some liberal communities out there that totally embrace telling children every possible bad thing that could happen to them in their life," the librarian wrote in an e-mail to Messner, "but once that innocence bubble is popped they can never unlearn those things or remove those images. I want some more hours of sprinklers, mud pies, and running around with light sabers."

When the school librarian requested Messner's visit in January, she was sent an advance copy of the book and a letter written by Messner explaining that the novel contained an "honest but age-appropriate look at the effect heroin addiction has on families." Messner is not sure the letter—or her book—were read until just before her scheduled visit.

"I don't think this was censorship, but I do think there was a breakdown in communication," Messner said.

Since the initial cancellation, the principal assured Messner that the school library will shelve *The Seventh Wish*, and e-mailed parents to let them know that the South Burlington Community Library and Phoenix Books, an independent bookstore in Burlington, would host an event with Messner on June 28. Reported in: *Publishers Weekly*, June 22.

Chesterfield, Virginia

Titles like *Eleanor and Park* and *Out of the Easy* might have made their way onto lists of best books for teenagers, but they also raised the ire of a group of Chesterfield parents. Calling the books "pornographic" and filled with "vile, vile, nasty language," Midlothian's Shannon Easter was one of the parents raising objections to books that were placed on Chesterfield County Public Schools' summer reading lists for middle and high school students.

Easter—who has one child enrolled in the county school system and two others who are home-schooled—initially began her campaign last summer by researching the books on Midlothian High's summer reading list. Using websites like nonprofit Common Sense Media and Plugged In, the entertainment arm of conservative Christian organization Focus on the Family, Easter deemed some of the books on the reading list to be inappropriate. She said that four titles on last year's list for Midlothian High were removed after she contacted the school's administration.

This May, when Easter and other parents requested Midlothian High's 2016 summer reading, they were informed that the high school would not be issuing one and that the school would instead use a countywide summer reading list. The parents found several titles on the 2016 reading lists objectionable, including Rainbow

Rowell's *Eleanor and Park*, a love story between two misfit teenagers in Nebraska.

The book has received multiple accolades as the young adult or teen book of the year for 2014 and was one of the American Library Association's Michael L. Printz Award honor books.

One of the books taken off of the revised middle school list is *Tyrell*, by Coe Booth, about an African-American teen living in a homeless shelter.

Easter also took issue with the original middle school list's inclusion of *Dope Sick*, by Walter Dean Myers. The book is about a young man who has been shot during a drug deal and is on the run from the police. Myers has won the Coretta Scott King Book Award for African-American authors five times.

"It's a very disparaging book that does not help eliminate racism," Easter says. "It separates and divides. It's trash."

Easter also finds fault with the original list's Kimani Tru series, saying the books' inclusion of issues like teen pregnancy and abortion aren't appropriate for middle school consumption. These books are not found on the revised lists.

After contacting the school system this year, Easter said the middle and high school summer reading lists were pulled from the Internet and revised, no longer containing the words "suggested" and "recommended." The updated lists for middle and high schools were revised to state that the school system "does not endorse any specific titles on these lists. Not all parents will consider all of the books on these sites to be appropriate, so parents are encouraged to visit these sites for reviews to determine which books are appropriate."

The lists include books that Easter doesn't find objectionable; however, she continued to take issue with the



links to other organizations' book lists now included on the CCPS lists. The links connect to pages from Scholastic, James Patterson's Read Kiddo Read and others, which contain books that Easter considers pornographic.

"You can get right back to all this trash in two links," Easter said.

Speaking at a School Board meeting, the county's chief academic officer, Donna Dalton, said that the school system had revised the book lists to address concerns of parents. Previously, the list had included recommendations from CCPS librarians.

"Instead, we are pointing our middle and high school students and their parents toward lists to national websites that review books," Dalton said. "These include Scholastic, Read Kiddo Read and Young Adult Library Services."

"We hope that we are proactively addressing concerns raised by our parents over sensitive reading materials," Dalton said.

The summary of the updated reading lists reads, "Summer reading is more about practicing the enjoyable habit of reading than it is about challenging students academically."

To this, Easter objects. "I'm not paying them tax dollars to entertain my children, and if I were paying them to entertain my children, I certainly wouldn't want them doing it with pornography," Easter says. "We are focused on getting the pornography off of the reading list and out of the hands of our kids."

In response to the controversy, state Senator Amanda Chase said the books on the original lists were "pornographic" and "trash." She said that librarians who continued to recommend books that were inconsistent with CCPS' "core values" should be "dismissed" after a warning and that the offending books should be removed from school libraries.

"Most parents, if they actually read excerpts [of these books], would have grave concerns," said Chase. "Whenever we start introducing kids to what I would say is explicitly pornographic material, I question the appropriateness of that material, especially when it conflicts with the core values that CCPS puts forward. As a parent, that's not something that I want my kids reading."

Chase, a Republican, said she supported a General Assembly bill that would have required public schools to notify parents before using sexually explicit books in school. The bill passed both houses of the legislature before it was vetoed by Democratic Gov. Terry McAuliffe.

"At the very least, there should be parental notification," Chase says. "It's embarrassing, honestly. If parents want to talk about it at home with their kids, that's one thing, but why would you have that at school?" Reported in: *Chesterfield Observer*, June 22, 29, July 20.

STUDENT PRESS Langhorne, Pennsylvania

Access to post and edit content to the online version of *The Playwickian*, the student newspaper at Neshaminy High School in Langhorne, was revoked for more than a month after student editors decided not to publish the word Redskin in a news article, despite being directed to do so by the school's principal.

The Playwickian's editor in chief, Tim Cho, has teamed up with the Philadelphia-based law firm Levine, Sullivan, Koch & Schulz to protest the actions taken by the Neshaminy High School administration. A letter they sent, dated June 6th, states that the school's administration violated Cho's federal and state constitutional rights.

"I suppose the administration has underestimated us," said Cho, a

Neshaminy senior, on why he believes school administrators have taken such bold actions against *The Playwickian* staff.

Student editors were directed by Neshaminy High School Principal Robert McGee to publish an article with the term Redskin, after the student author and then-co-managing editor, Jessica McClelland, filed and won an appeal of the editors' decision to redact the word.

Cho said the editorial board's decision not to publish the word Redskin, which is also the school's mascot, in the article was based on an 8-1 majority vote and in accordance with a 2013 policy established by the newspaper.

The Playwickian received national attention when its editorial board decided not to publish the word Redskin in 2013, after deciding it was a racial slur against Native Americans. Other newspapers have also stopped using the word.

Most Neshaminy students, however, are either not opposed or don't have an opinion on the school's mascot name, said Cho, citing the school's large student population and football culture as reasons why.

"People talk about tradition, but they don't talk about [the] history" behind the tradition, he said.

The article at the center of *The Playwickian's* latest controversy was about Neshaminy's annual Mr. Redskin competition, considered for publication in the newspaper's May online-only edition, a month after the event. Some of the newspaper's editors did not want it published for that reason.

Eishna Ranganathan, former *Playwickian* co-managing and co-news editor, said the newspaper's May edition is online only because the staff takes that month to prepare for its June graduation print issue.

In mid-April, the majority of *The Playwickian's* editors did decide



to publish the article with the word Redskin redacted, printing it as “R-----,” in accordance with its editorial policy—and the Associated Press stylebook’s guidelines for redacting obscenities and profanities.

That same day the article was removed from the website and editors’ administrator privileges were revoked by school administrators, Cho said. Administration later uploaded the article to the newspaper’s website with the word Redskin intact, Cho said.

This move is in violation with the district’s own publications policy, known as Policy 600, which gives student editors the right to redact the word Redskin or not publish stories that use it. Their decisions can be appealed, as was the case for the Mr. Redskin article, and the principal has to review all of the newspaper’s content before it is published in print or online.

Policy 600 was revised in 2014 after *The Playwickian* editorial board voted fourteen to seven the previous year to ban the word Redskin from its pages. The policy now dictates that “no student shall be disciplined for editing or editorial decisions, including the deletion of the word ‘Redskin’ from any article or editorial or for objecting to its use in any advertisement.”

Cho and his legal team are requesting that school administrators publish the article with the word Redskin redacted and restore Cho’s administrator privileges on the website.

The paper’s staff has been feeling the blowback of their decision to ban the word Redskin since the beginning, said Ranganathan, who was a freshman at Neshaminy in 2013. For the past two years, *The Playwickian*’s budget has been cut, she said. Last academic year the newspaper operated on a slim \$2,000, an amount the editors unsuccessfully sought to double through the crowdfunding site Indiegogo. And

Cho expects funds to be cut in half again soon.

Administration told the newspaper’s staff that they cut its budget in an effort to digitize the publication, Ranganathan said. Then they cut web access, she added. “I would say the ball is in the administrator’s court now,” Ranganathan said. Reported in: splc.org, June 13.

COLLEGES AND UNIVERSITIES San Bernardino, California

San Bernardino Valley College has halted production on a play based on December’s terrorist attack in that city. The announcement came after some of the victims’ family members objected to the concept.

“Please accept our deepest apologies for any pain or hurt we may have caused during the planning stages of launching a fall production called *SB Strong*,” Diana Z. Rodriguez, college president, wrote in a letter to San Bernardino County residents. “Our faculty are very sympathetic to the sensitive nature of their work and are considering a new theme for our fall production. We will not be doing *SB Strong*.”

Rodriguez said that “wider community input” will be sought if such a project is considered in the future, to ensure that the victims of the attack at the Inland Regional Center aren’t dishonored or misrepresented. At the same time, she said that academic freedom was not abridged in the decision to pull the play.

“Although we encourage originality on the part of our faculty and cannot censor their academic work, we also highly value the community’s input into the work we do,” she wrote. “We strive to be an institution that excels in bridging cultural gaps and providing improved access to rewarding careers and professional opportunities. We could never seek to exacerbate the

profound grief with which our community still lives.”

Matie Manning Scully, chair of performing arts at the college, said she did not believe the play’s cancellation raised concerns about academic freedom, although it was to have been part of the instructor’s fall play production class.

“It’s my understanding that [she] decided this on her own,” Scully said. “She’s a very tenderhearted woman to get this sort of negative response, I think she came to this decision on her own.”

A local newspaper ran a story about the plan to produce a “devised” play about the San Bernardino shootings, in which an ensemble cast would research and conduct interviews with local residents about their responses to the attack to create an original play. Later in the week, some people in the area, including family members of victims, voiced their concerns about the idea to college officials. Some said they wanted to see a script before the project moved ahead, others said it was simply too soon, and others still said it was poor judgment to dramatize the event at all.

“As the father of one of the 14 people killed, I am aghast at the suggestion that you’d want to profit from Daniel’s death,” Mark Sandefur wrote in a letter to the college, referring to his late son, Daniel Kaufman. “What incredibly bad taste you show. I can’t imagine who thought this was a good idea.”

Because there was no script, no one was citing anything specific about the play except its concept.

Pavel Bratulin, spokesperson for the college, said via email that faculty members had received concerns “sent directly to them that the production would lack support from many family members and friends of victims.”

Since this was “one of the key voices the faculty wanted to hear from and



involve in the production, they decided not to move forward with it this semester,” Bratulin said. “The decision was made by faculty out of consideration for the families of victims who shared their concerns. Our academic freedom policy encourages independence of thought and originality, so the decision could have only been made at the faculty level.” Reported in: insidehighered.com, August 1.

Hanover, New Hampshire

Dartmouth College President Phil Hanlon on May 15 denounced the removal of a bulletin-board display in honor of slain police officers, calling the action “an unacceptable violation of freedom of expression on our campus.”

In memory of police officers killed in the line of duty, the Dartmouth College Republicans arranged the exhibit, titled “Blue Lives Matter,” in the Collis Center. The next morning the posters, which gave statistics on law enforcement deaths and hailed the country’s “everyday heroes,” were replaced by fliers that read “You cannot co-opt the movement against state violence to memorialize its perpetrators #blacklivesmatter.”

Participants in the protest group Black Lives Matter claimed responsibility on social media, saying the play on their name undermined efforts to curb police violence.

“The unauthorized removal on Friday of a student display for National Police Week in the Collis Center was an unacceptable violation of freedom of expression on our campus,” Hanlon said in the statement, which also appeared on the college website. “Vandalism represents a silencing of free exchange, rather than open engagement.”

The bulletin-board incident was the latest in a string of race-related disputes on campus. In November, Black Lives Matter activists staged a protest in

Baker-Berry Library after unidentified individuals removed parts of their own display, which commemorated African-Americans slain by police.

Unsubstantiated reports of violence at the protest, as well as first-hand accounts of abusive and racially charged epithets, led to a backlash against the activist movement, and Hanlon at the time released a statement that appeared to criticize the demonstrators. The college president also promised punishment for any students found to have misbehaved during the protest, a promise that he renewed for this latest incident. Reported in: *Valley News*, May 17.

New Brunswick, New Jersey

Rutgers University officials removed a controversial art piece depicting a Jesus on a dartboard from a campus library in April after receiving complaints that the exhibit was offensive, school officials said. The piece, which shows a figure of a crucified Jesus stabbed with four darts, was part of an exhibit in the Art Library on Voorhees Mall in the heart of the New Brunswick campus.

Some Rutgers students and alumni turned to Facebook to post photos of the art piece, called “Vitruvian Man,” and demand it be taken down.

“It is surprising that a state university would allow this. I asked them to take it down because I found it disrespectful and they refused,” Rutgers alumna Natalie Caruso, of Elmwood Park, said Wednesday in a Facebook post on the Rutgers University Class of 2016 page that drew hundreds of comments and shares.

Other commenters defended the piece and the university’s right to display it. “It’s art, it’s an important statement. Also it’s hilarious. We don’t have to cater to the wills of the Church or any denomination of Christianity or

religion,” Joe Buchoff, a Rutgers student, wrote on Facebook.

Campus officials removed the art piece from a prominent spot hanging on a wall near the circulation desk, library officials said. Instead, the piece was moved to the other side of the room and placed on its side on the lower shelf of a glass exhibit case with other art pieces. By that afternoon, a library spokeswoman said the piece was taken out of the exhibit entirely.

“The artwork in question was removed from the exhibit because it did not meet Rutgers University Libraries policy, which requires art exhibitions and their pieces to be based on university events, curricular offerings and topics of interest to the university community,” said Jessica Pellien, director of communications at Rutgers University Libraries.

“The process that the libraries use to determine how artwork is selected for inclusion in an exhibit takes into consideration freedom of expression as well as the criteria listed above. We have concluded that the policy and process the libraries use to select artwork for exhibitions was not followed,” Pellien said.

Pellien did not elaborate on how or why the artwork was put on display without the proper approvals.

The dartboard Jesus art piece was one of dozens of unusual art pieces displayed around the three-story library. The other pieces included a stack of coins covered with a condom (titled “Tower of Babel”), a milk carton with a photo of Holocaust victim Anne Frank on the back (titled “Cute Kids Make Good Advertising”) and a Rutgers diploma hanging from a real estate sign (titled “The Bullfighter Extends His Cape”).

The names of the artists were not included with the artwork. Rutgers officials did not identify the artist who created the dartboard Jesus piece or



whether he or she is a student or faculty member. Reported in: nj.com, April 21.

Stout, Wisconsin

Anti-censorship groups have appealed to the University of Wisconsin-Stout not to remove or relocate two eighty-year-old paintings that depict First Nations people and French fur traders. UW-Stout Chancellor Bob Meyer said the paintings were being relocated for display under “controlled circumstances” because of student complaints.

Meyer said Native American students feel the paintings symbolize a time when their land and possessions were taken from them. The school is moving the paintings because of their potential for harmful effect and because they could reinforce racial stereotypes.

Anti-censorship groups responded to the decision, including the National Coalition Against Censorship, which was contacted by a UW-Stout professor.

“Shrouding or moving the painting does not educate anyone or stimulate any learning or dialogue. American history and representations of that history can be ugly and offensive,” said Stout English and philosophy professor Timothy Shiell. “But hiding them doesn’t change the past or the future.”

NCAC contacted Meyer on August 5 and urged his administration to reconsider.

Cal Peters created the paintings in 1936. The six foot by eighteen foot murals were commissioned under the Works Progress Administration and depict a French fort and fur traders with Native Americans canoeing the Red Cedar River.

The earliest news reports on the issue said UW-Stout planned to place the paintings into storage. That news prompted a series of complaints from conservative commentators and right-wing politicians about “political correctness.”

But the decision to relocate the paintings also brought reaction from more serious sources, like the NCAC. It said historical work like Peters’ paintings provides an opportunity to engage with and reflect on the lasting and important questions raised by these traces of historical memory. “At a time when the lingering effects of systemic prejudice and racism continue to be felt this is of particular importance,” NCAC said.

Later, after the university announced plans not to remove but to relocate the paintings, NCAC director of programs Svetlana Mintcheva said, “Encounters with an often brutal history are part of the educational process, censoring stories that don’t feel good is not. What’s worse is the disrespectful and patronizing assumption that future students need to be shielded from these historical realities.”

Meyer told Wisconsin Public Radio the decision was not based on political correctness or censorship. He said, “So, we want to make sure that, really, what we decorate our hallways with and what we put in our hallways is consistent with our values to try to attract more Native Americans to the university.” Reported in: *Wisconsin Gazette*, August 25.

BOOKSTORE Ashland, Oregon

After fourteen years of business in Ashland a bookstore that sells banned and censored books will be closing its

doors this fall. The owner of “Shakespeare Books and Antiques,” Judi Honore, said a dispute with the Oregon Shakespeare Festival has not only hurt her bottom line, it’s also affected her personal life.

“I’ve been told I’m racist,” Honore said.

Eddie Wallace Associate Director of Communications for OSF sees it differently and says they’re not the reason she’s shutting her doors. “All I can say is it’s an interesting piece of fiction that she is writing,” Wallace responded.

The dispute between Honore and OSF began this summer when a controversial book cover in the store’s window display was called into question. According to Wallace, four actors with OSF asked Honore to move *Little Black Sambo*, about a young Indian boy, from the front window.

“I said ok, great, come in, and we’ll move it together,” agreed Honore.

But OSF executives soon wrote her, saying they had instructed their staff not to patronize the bookstore for any festival related goods or services. According to Honore, the move hurt her business driving down sales significantly in August.

“The festival withholding business from the store is not the reason for Judi encountering economic difficulties,” said Wallace. Still Honore said she stands by her decision to display the book and others like it.

“My position is that I stood up for my rights, I stood up for what I feel is right.” Even though she says she probably could wait to see if the store will bounce back, she’s now canceled her lease saying the stress and emotional toll on her personal life isn’t worth it. Reported in: kobi.com, September 1.



NET NEUTRALITY Washington, DC

A federal appeals court on June 14 upheld a White House-supported effort to make internet service providers treat all web traffic equally, delivering a major defeat to cable and telephone companies.

The US Court of Appeals for the District of Columbia Circuit, in a two-to-one vote, affirmed the FCC's latest net neutrality rules, which consumer groups and President Barack Obama have backed as essential to prevent broadband providers from blocking or degrading internet traffic. The telecom industry and Republicans have heavily criticized the rules as burdensome and unnecessary regulation, with Texas Sen. Ted Cruz once labeling it "Obamacare for the Internet."

AT&T immediately announced it would appeal the ruling, saying it's always expected the issue to be decided by the Supreme Court. Several industry trade groups are expected to join the effort.

The court decision marked a victory for FCC Chairman Tom Wheeler, who led the agency's Democratic majority in approving the rules in February 2015 over the objections of the agency's two GOP commissioners. The rules apply utility-style regulation originally written for telephone companies to both land-based and wireless internet services.

Wheeler celebrated the ruling, calling it a "victory for consumers and innovators who deserve unfettered access to the entire web."

"It ensures the Internet remains a platform for unparalleled innovation, free expression and economic growth," the FCC chair said in a statement. "After a decade of debate and legal battles, today's ruling affirms the Commission's ability to enforce the strongest possible internet

protections—both on fixed and mobile networks—that will ensure the internet remains open, now and in the future."

Big internet service providers, such as Verizon and Comcast, argued the rules will chill investment in network infrastructure. AT&T and CenturyLink, along with cable, wireless and telecom trade groups, filed the lawsuit to overturn the order.

During oral arguments in December, appeals court judges David Tatel, Sri Srinivasan and Stephen Williams had seemed receptive to the FCC's decision to ground its net neutrality rules in telephone-style regulation. In the majority opinion, written by Tatel and Srinivasan, the judges said the FCC's approach was bolstered by how people view the internet today.

"These conclusions about consumer perception find extensive support in the record and together justify the Commission's decision," they wrote.

The majority also let stand the FCC's decision to apply net neutrality rules to the wireless internet, citing the "rapidly growing and virtually universal use of mobile broadband service." That's a critical feature of the rules, since many people today access the web through smartphones.

Williams, the lone dissenter, said he agreed the FCC has the authority to change how it regulates broadband providers, but said the agency didn't provide enough reasons for doing so.

Sari Feldman, president of the American Library Association (ALA), released the following statement regarding the decision:

"The American Library Association hails the U.S. Court of Appeals decision today upholding the Federal Communications Commission's Open Internet Order. America's libraries collect, create and disseminate essential information to the public over the Internet. We also ensure our users are

able to access the Internet and create and distribute their own digital content and applications. Keeping an open Internet—often referred to as 'network neutrality'—is essential to meeting our mission in serving our communities.

"More than a year ago the FCC rightfully claimed its authority to protect against blocking or throttling of legal content, as well as to prevent paid prioritization of some Internet traffic over other traffic. We are pleased the Court has affirmed the FCC Order and sustained the strongest possible protections for equitable access to online information, applications and services for all."

Congressional Democrats cheered the court decision as a win for consumers and free speech, with Bernie Sanders tweeting that it "will help ensure we don't turn over our democracy to the highest bidder."

Republicans criticized the opinion, and some GOP lawmakers reiterated calls for legislation to undo the FCC's order and create rules that are less burdensome to industry.

"This is why we need to rewrite the Communications Act," Rep. John Shimkus (R-IL) said. "There's a better way to protect consumers from blocking and throttling without stifling innovation or delaying build-out. That way requires action by Congress."

But public interest groups involved in the net neutrality battle urged industry and Republicans to give up the fight.

"The people have spoken, the courts have spoken and this should be the last word on net neutrality," Free Press President and CEO Craig Aaron said in a statement.

Republican FCC Commissioner Ajit Pai—who voted against the net neutrality order—said big cable and telecom firms should keep pursuing the case in court. "I continue



to believe that these regulations are unlawful, and I hope that the parties challenging them will continue the legal fight,” Pai said.

The telecom sector has a successful track record in thwarting the FCC’s net neutrality efforts. A lawsuit by Verizon scuttled the agency’s previous 2010 Open Internet order. Reported in: politico.com, June 14.

PRIVACY Washington, DC

In an April court opinion, a federal court judge overseeing government surveillance programs said he was “extremely concerned” about a series of incidents in which the Federal Bureau of Investigation and National Security Agency deviated from court-approved limits on their snooping activities.

Foreign Intelligence Surveillance Court Judge Thomas Hogan sharply criticized the two agencies over the episodes, referred to by intelligence gatherers as “compliance incidents.” He also raised concerns that the government had taken years to bring the NSA-related issues to the court’s attention and he said that delay might have run afoul of the government’s duty of candor to the court.

“The court was extremely concerned about NSA’s failure to comply with its minimization procedures—and potentially” a provision in federal law, Hogan wrote. The NSA violations appeared to involve preserving surveillance data in its systems beyond the two or five years after which it was supposed to be deleted.

“Perhaps more disappointing than the NSA’s failure to purge this information for more than four years, was the Government’s failure to convey to the Court explicitly during that time that the NSA was continuing to retain this information,” the judge wrote in

the November 6, 2015, opinion made public in April.

In a statement, the Office of Director of National Intelligence said officials did not mean to be misleading. “The Government has informed the Court that there was no intent to leave the FISC with a misimpression or misunderstanding, and it has acknowledged that its prior representations could have been clearer,” the statement posted on ODNI’s Tumblr site said.

The NSA said in some cases it needed the data to prevent future incidents where data was accidentally collected without legal authority, like when a surveillance target enters the United States. (At that point, officials are supposed to seek a more specific court order to continue the surveillance.) However, that wasn’t the case with all of the old data NSA was hanging onto.

The FBI’s troubles involved failing to use the required procedures when conducting surveillance of suspects overseas who are facing criminal charges in US courts. In order to preserve attorney-client privilege, the FBI is supposed to have such surveillance reviewed by a “taint team” that can excise any legal communications, but that was not happening in all cases, the FBI reported.

Hogan said the FBI revealed some such incidents in 2014, but the number was redacted from the opinion made public. “The government generally attributed those instances to individual failures or confusion, rather than a ‘systematic issue,’ “ Hogan wrote. However, more incidents occurred from mid-2014 and through 2015, although again the precise number was not released. In some instances, FBI agents believed, incorrectly, that they didn’t need to set up a review team if the indictment was under seal or outside the United States.

“The Court was extremely concerned about these additional incidents of non-compliance,” wrote Hogan, who also serves as a federal district court judge in Washington. He was appointed by President Ronald Reagan.

At a closed hearing last October, the FBI detailed some procedures set up to remedy the problem, including additional training and a system to remind agents when such reviews are needed. Hogan said he was “satisfied” that the FBI was “taking appropriate measures” to address the issue. However, he said he “strongly encourages” the government to find any other such mistakes and he said he wanted a briefing on those efforts earlier this year. Reported in: politico.com, April 19.

SCHOOLS Chicago, Illinois

A federal appeals court has upheld the Chicago school system’s suspension of a sixth grade teacher for using for using a racial epithet in his classroom, ruling that even using the word in a lesson violated the school district’s policy against the use of racial epithets in front of students.

Lincoln Brown, a teacher at Murray Language Academy in the Chicago district, caught his students passing a note in class that included music lyrics featuring the word “nigger,” court papers say. He then attempted “a well-intentioned but poorly executed discussion of why such words are hurtful and must not be used,” said the US Court of Appeals for the Seventh Circuit, in Chicago.

Brown’s principal happened to be observing his class, and the principal suspended Brown, whose race isn’t noted in the opinion, for five days for violating the school board’s policy against the use of verbally abusive language. The Chicago school board upheld the suspension.



Brown sued, arguing that his First Amendment free speech rights and Fourteenth Amendment due process of law rights were infringed by the discipline.

He lost in both a federal district court and in the Seventh Circuit court. The three-judge appeals court panel ruled unanimously that his free speech rights were not violated because he used the word in the course of his employment.

The court noted that under US Supreme Court precedents such as the 2006 case of *Garcetti v. Ceballos*, speech by public employees pursuant to their official duties is not protected by the First Amendment.

“Here, Brown gave his impromptu lesson on racial epithets in the course of his regular grammar lesson to a sixth grade class,” said the June 2 opinion by Chief Judge Diane P. Wood in *Brown v. Chicago Board of Education*. “His speech was therefore pursuant to his official duties. That he deviated from the official curriculum does not change this fact.”

The court also rejected Brown’s arguments that the school district’s rule against using racial epithets in front of students was unconstitutionally vague. Brown argued that the school system permitted the teaching of Mark Twain’s *The Adventures of Huckleberry Finn*, which uses the word throughout, and had permitted the showing of movies such as *42*, about Jackie Robinson’s experiences as the first black player in Major League Baseball, which also uses the word.

“A handful of instances of past non-enforcement . . . is insufficient to render the policy so vague that an ordinary person would not know what it prohibits,” Wood said.

“Brown is indignant that he was suspended for using a racial slur while attempting to teach his students why such language is inappropriate,” Wood

added. “His frustration is understandable, but it is not legally actionable.” Reported in: *Education Week*, June 3.

STUDENT PRESS Phoenix, Arizona

Student media outlets stripped of financial support because of unflattering content have some additional legal ammunition, thanks to a federal appeals court decision.

The US Court of Appeals for the Ninth Circuit has overturned a district court’s ruling dismissing the claims of an Arizona student organization that was penalized with the loss of an automatic \$1-per-student fee subsidy after opposing the governor’s position on a statewide referendum.

The court’s ruling reinstates the First Amendment claims brought on behalf of Arizona Students Association, which advocates for the interests of students at the state’s three public universities.

In a 3-0 ruling issued June 1 the California-based court held that the ASA’s complaint adequately set forth the essential ingredients of a First Amendment claim by alleging that the state Board of Regents adversely altered the association’s funding formula as punishment for political speech—specifically, campaigning for an education-funding ballot initiative that the governor opposed.

A US district court dismissed ASA’s claims in 2013, finding that the loss of student activity fees wasn’t actionable under the First Amendment. Essentially, Judge John D. Sedwick accepted the state’s argument that allocating student fees is a purely discretionary, year-to-year decision and that the receipt of fees in a prior year in no way creates an entitlement or expectation of continued funding.

Even worse, the district judge declined even to consider evidence of retaliatory bias expressed by Regents

members: “The allegedly illicit motivation of some members of [the board] is not relevant to the First Amendment analysis in the circumstances here.”

Had that ruling held up, student media organizations facing the removal of university financial support would have had an essentially impossible burden to challenge even the most blatant cause-and-effect cases of retaliation.

But it didn’t. In an opinion by Judge Richard A. Paez, the court overruled Sedwick and sent the case back with instructions to allow the student association to re-plead its First Amendment claims:

“A state, division of the state, or state official may not retaliate against a person by depriving him of a valuable government benefit that that person previously enjoyed, conditioning receipt of a government benefit on a promise to limit speech, or refusing to grant a benefit on the basis of speech. Those limitations apply even if the aggrieved party has no independent or affirmative right to that government benefit,” the court ruled.

That’s an enormously important point that, while logical, hasn’t always been obvious to college lawyers or judges. There’s a tendency to argue that, when something is a “privilege” rather than an “entitlement,” taking it away cannot be actionable under the First Amendment, because there’s “no right to receive student activity fees.”

But, as Judge Paez understood and explained, that’s the wrong way to think about a First Amendment retaliation claim. The ASA wasn’t claiming a “right to receive money”—they were claiming a right to be free from punishment for speech.

This principle would be well-understood outside of the campus setting. Everyone knows that the governor cannot send the highway patrol



door-to-door to confiscate the driver licenses of people who give speeches opposing the governor just because “driving is a privilege, not a right.” Government can’t take rights or privileges away as a means of punishing or deterring constitutionally protected speech—and advocating for the passage of a referendum is at the pinnacle of protected political speech.

The Ninth Circuit stated it unequivocally: “the collection and remittance of funds is a valuable government benefit, and a change in policy undertaken for retaliatory purposes that results in the deprivation of those funds implicates the First Amendment.”

The court’s ruling resonates at least as far away as Kansas, where right now the *University Daily Kansan* newspaper is (just as the ASA was) defending against a motion to dismiss its First Amendment lawsuit challenging the retaliatory withdrawal of student activity fees. And just as in the Arizona Students Association case, the university is defending itself by insisting that a vote to allocate or not allocate fees is a matter of legislative discretion, its motivation beyond the authority of courts to review. Reported in: splc.org, June 6.

UNIVERSITY Raleigh, North Carolina

On June 4, a federal district court ruled that a student organization, Grace Christian Life, was likely to be successful in its First Amendment lawsuit against North Carolina State University, ordering the university to immediately cease enforcing a policy requiring permission to distribute literature on campus. While the court could later vacate the preliminary injunction following trial, it’s likely that the case will either settle before trial or a trial will vindicate the student organization’s claims, making this order

a welcome addition to the growing heap of speech codes struck down by courts on First Amendment grounds.

The policy at issue is NC State’s “Non-Commercial Solicitation” policy, which prohibited “any distribution of leaflets, brochures or other written material, or oral speech to a passerby [*sic*]” without written permission in advance from NC State administrators.

NC State chose to enforce its policy against Grace Christian Life, with administrators’ emails showing that merely handing someone a card was construed as improper “solicitation.” When repeatedly challenged on the policy by Grace Christian Life’s attorneys from the Alliance Defending Freedom (ADF), NC State chose to repeatedly defend the policy. When Grace Christian Life sued, NC State chose to defend the policy before a federal judge.

NC State’s argument consisted largely of repeating the refrain that the restriction was a reasonable “time, place, and manner” restriction having nothing to do with content or viewpoint of the would-be speaker. The government can, of course, impose reasonable restrictions on speech which regulate the time, place, or manner of the speech, without regard to its content or views, but continually reciting “time, place, or manner” as a mantra does not make a policy so. More to the point, a university cannot say “you can’t speak ever without permission.” Even if such a policy were reasonable in scope, it cannot then fail to say what the criteria are to be eligible for such a permit.

The First Amendment does not grant government officials “unfettered discretion” to use their own judgment about when to issue a permit. That would allow an administrator to come up with their own varying reasons for granting or denying a permit, thus

creating a risk that those requirements will be harder to meet if the administrator dislikes the speaker or her message. And if there are no requirements other than asking for permission, why require a permit at all?

A federal judge agreed, and NC State has been ordered not to enforce the policy—for now, at least. Reported in: thefire.org, June 8.

CHURCH AND STATE Lincoln, Nebraska

A Nebraska inmate who has professed his allegiance to the divine Flying Spaghetti Monster lost his bid demanding that prison officials accommodate his Pastafarianism faith.

A federal judge dismissed the suit brought by Stephen Cavanaugh, who is serving a 4- to 8-year term on assault and weapons charges at the Nebraska State Penitentiary. US District Judge John Gerrard ruled that “FSMism” isn’t a religion like the ones protected under the Constitution.

“The Court finds that FSMism is not a ‘religion’ within the meaning of the relevant federal statutes and constitutional jurisprudence. It is, rather, a parody, intended to advance an argument about science, the evolution of life, and the place of religion in public education. Those are important issues, and FSMism contains a serious argument—but that does not mean that the trappings of the satire used to make that argument are entitled to protection as a ‘religion,’” the judge ruled.

For the uninitiated, Judge Gerrard gives some explanatory background on Pastafarianism:

“FSMism is a riposte to intelligent design that began with a letter to the Kansas State Board of Education when it was considering intelligent design. The primary criticism of intelligent design—and the basis for excluding it from school science classes—is that



although it purports to be “scientific,” it is actually “an interesting theological argument” but “not science.” The conceit of FSMism is that, because intelligent design does not identify the designer, its “master intellect” could just as easily be a “Flying Spaghetti Monster” as any Judeo-Christian deity—and, in fact, that there is as much scientific evidence for a Flying Spaghetti Monster as any other creator. As the FSM Gospel explains, “we are entering into an exciting time, when no longer will science be limited to natural explanations. . . . Propelled by popular opinion and local government, science is quickly becoming receptive to all logical theories, natural and supernatural alike.”

In his lawsuit, the inmate sought \$5 million and claimed he has “several tattoos proclaiming his faith” and

demanding that prison officials afford his “faith” the “ability to order and wear religious clothing and pendants, the right to meet for weekly worship services and classes and the right to receive communion.” Corrections officials determined FSMism was a parody religion and rejected his requests. (The religious clothing at issue is “a pirate costume,” the judge notes.)

According to the ruling, “This is not a question of theology: it is a matter of basic reading comprehension. The FSM Gospel is plainly a work of satire, meant to entertain while making a pointed political statement. To read it as religious doctrine would be little different from grounding a ‘religious exercise’ on any other work of fiction. A prisoner could just as easily read the works of Vonnegut or Heinlein and claim it as his holy book, and

demand accommodation of Bokononism or the Church of All Worlds. Of course, there are those who contend—and Cavanaugh is probably among them—that the Bible or the Koran are just as fictional as those books. It is not always an easy line to draw. But there must be a line beyond which a practice is not ‘religious’ simply because a plaintiff labels it as such. The Court concludes that FSMism is on the far side of that line.”

Nebraska, in seeking to have the case dismissed, told the judge that there was no constitutional violation. “The essence of this action,” the state wrote, “is that prison officials believe the Plaintiff is not sincere in his religious beliefs about a flying lump of spaghetti that first created ‘a mountain, trees, and a midget.’” Reported in: arstechnica.com, April 14.



LIBRARIES Long Beach, California

Gabriel J. Gardner is a librarian at California State University at Long Beach. He studies, among other things, the reasons that some scholars—even those with access to scientific journals for which their colleges and universities have paid for subscriptions—prefer shared papers, even when those papers have been pirated in violation of copyright laws.

Gardner has published papers on the topic and given presentations at meetings of academic librarians.

Thomas H. Allen, president of the Association of American Publishers, last month sent a letter to Gardner's boss at Cal State to complain about a presentation Gardner made on the research—and that letter is now being shared online and being criticized by many librarians. Gardner and Cal State say that the letter distorts his research and implies that talking about such repositories of pirated papers as Sci-Hub is the same thing as endorsing them. And they say Allen is trying to intimidate librarians who are pushing for change in scholarly publishing.

In his letter, Allen said that Gardner, in a recent session at the American Library Association, “essentially” said of Sci-Hub, “Try it, you’ll like it.” Sci-Hub, Gardner noted, is under court orders not to continue its operations.

“Sci-Hub’s methods are not benign,” Allen wrote. “They include illegally accessing the secure computer networks of a large number of major universities by, among other methods, hijacking ‘proxy’ credentials used to facilitate off-campus remote access to university computer systems and databases. The techniques employed by it to defeat security standards are similar to those employed by other cyberintrusions,” including those that protect

the privacy of students’ and researchers’ records.

Allen went on to say that he found it “surprising” that a Cal State librarian would “promote the activities of an adjudicated thief who has compromised university computer systems and databases worldwide.” While some supporters of Sci-Hub “invoke academic freedom,” Allen said, such arguments are nothing more than “rationalizations” to “justify the theft of intellectual property.”

Via email, Gardner said that he never endorsed Sci-Hub or its methods, but that in discussing the site, he said it was easy to use. He said it’s important for librarians to be aware of that fact.

“I believe the letter was an attempt at intimidation; my deans certainly interpreted it as such,” Gardner said. “The pretext that the purpose of the letter was to educate us about the severity of intellectual property violations is laughable. Every librarian in the country knows that they shouldn’t advocate piracy, to do so is a clear violation of the American Library Association’s Code of Ethics.”

Roman Kochan, dean of library services at Cal State Long Beach, has issued his own letter, strongly defending Gardner and asking why the publishers’ group is not doing more to help university libraries deal with journal costs.

Kochan—citing a recording of the session—noted that Gardner said Sci-Hub was engaged in “massive piracy” with “illegal” actions, and in no way endorsed Sci-Hub. He said that Allen’s criticisms were “fundamental factual inaccuracies.” Further, he said that Gardner’s work was very much covered by academic freedom, and as such had the strong endorsement of Cal State Long Beach.

More broadly, in comments receiving praise on social media from

librarians, Kochan took the publishing industry to task for not working with academic librarians to create more affordable models for the dissemination of scholarship.

“The larger issue here is that the academic publishing model has become unsustainable,” Kochan wrote. “Like many university libraries, the library budgets at California State University at Long Beach and the California State University generally cannot sustain annual price increases of 3 percent to 10 percent by many of your organization’s members. Journal subscription prices are a key part of the reason that extralegal services, such as Sci-Hub, flourish.” Reported in: insidehighered.com, August 8.

Grand Forks, North Dakota

Can a public library kick out people who are asking other library goers to sign a petition? That question is being asked after a group of people in Grand Forks, led by C. T. Marhula, said they were kicked out of the Grand Forks Public Library in August.

Since it was announced that two locations (Midtown and Downtown) were selected for a new library in Grand Forks, many people have expressed their disapproval. “Many, many people want to keep the new library at its current location,” Marhula said. “We’ve collected a lot of signatures.”

Marhula said he went through the proper channels to get his group into the library to circulate the petition. “This is not North Dakota nice. This is not constitutional,” Marhula said. “The constitution guarantees the right to petition.”

However, David Thompson, an attorney in Grand Forks, said it’s not as simple as that. “The First Amendment of The Constitution protects free speech, but it’s not an absolute right,” Thompson said. “In other words,



people have no right to yell fire in a crowded theater.”

Thompson said several court cases allow the government to regulate speech in a reasonable time, place or manner. “If they were approaching people as they were reading at tables, going to card catalogs or using computers . . . for people to do that in a library, which is a quiet place, probably one of the most quiet public places that there are, would be basis for a government or representative of a government to ask people to leave,” Thompson said.

Library Director Wendy Wendt said it’s their longstanding policy to prohibit soliciting in any way at the library. The library board said they are going to take a look at the policy, “clear up some of the language” and ensure “it’s being enforced fairly.” Reported in: valleynewslive.com, August 17.

SCHOOLS Washington, DC

Schools have become “soft targets” for companies trying to gather data and market to children because of the push in education to adopt new technology and in part because of the rise of computer-administered Common Core tests, according to a new annual report.

The report, titled “Learning to be Watched: Surveillance Culture at School” and published by the National Center for Education Policy at the University of Colorado at Boulder, is the eighteenth annual report about schoolhouse commercialism trends.

It says student privacy is increasingly being compromised by commercial entities that establish relationships with schools—often providing free technology—and then track students online and collect massive amounts of data about them. Then they tailor their advertising to keep the young

people connected to them. One important consequence, the report says, is that children who are subjected to “constant digital surveillance and marketing at school” come to accept as normal that corporations play a big role not only in their education but in their lives.

The report says: “Schools have proven to be a soft target for data gathering and marketing. Not only are they eager to adopt technology that promises better learning, but their lack of resources makes them susceptible to offers of free technology, free programs and activities, free educational materials, and help with fundraising. Schools are under relentless pressure to make ever greater use of technology. Our techno-friendly zeitgeist embraces and celebrates the rapid proliferation of education technology in every corner of our lives. In school, teachers are encouraged to integrate technology into their lessons and homework, and to rely on computerized student performance data as a diagnostic tool. State and federal laws now require that schools do extensive data reporting; in addition, the Common Core testing regime requires students to take computerized tests—and therefore to be computer-competent before they approach the tests.”

Although some parents try to resist the collection and use of data about their children, the ubiquity of computers makes it easy for children and their parents to accept “constant data gathering and attendance surveillance of children”—and few look through the companies’ “long paragraphs of legalese” to understand what is really going on. Americans are, the report says, “to some extent being socialized to ignore and tacitly accept the collection, organization, and sale of information about us.”

The report notes that industry officials say that there is no danger to

student privacy because much of the data being collected is not directly identified with a particular student. But, it says, “even if companies anonymize student data for security or marketing purposes, however, students’ personally identifiable information (PII) may not be fully or permanently protected.”

Aside from privacy issues, the report says, marketers can influence the way young people think, feel and behave with data they collect online. It says: “Although companies that collect, sell, analyze, and buy data may not know children’s names (though they probably do), that hardly matters if they have the information and tools necessary to model everything about those children—including their interests, social networks, personalities, vulnerabilities, desires, and aspirations—and if they have personalized access to children, via their electronic devices, to shape them. By feeding children ads and other content personalized to appeal specifically to them, and also by choosing what not to show them, marketers influence children’s thoughts, feelings and behaviors. As they do, they also test, adjust, and perfect their models of influence—and then track and target some more.”

The report says Google and Facebook are probably the largest companies that data mine in schools, and they also spend a lot of money to lobby lawmakers “to keep regulation at bay.”

In 2013, *Advertising Age* noted that Google and Facebook, “two of the most pervasive digital-data collectors,” significantly increased their lobbying expenditures between 2011 and 2012—to \$19.6 million for Google and \$4.6 million for Facebook in 2012. . . . According to one Google blog post, it reaches “more than 30 million students, teachers and



administrators globally” via its Google Apps for Education (GAFE).

There are several federal laws that are meant to address student privacy: the Family Educational Rights and Privacy Act, known as FERPA; the Children’s Online Privacy Protection Act, known as COPPA, and the Protection of Pupil Rights Act. Each has significant weaknesses, the report says, which leave younger children and teenagers open to having their student records disclosed to commercial entities without parental consent.

Most of the laws dealing with study data apply to the disclosure to third parties of personally identifiable information. There is a voluntary Student Privacy Pledge that businesses can take, but there is no assurance that digital data will not be sold to advertisers or that companies won’t track students’ online behavior.

It is important to understand why the federal laws don’t do a complete job of protecting student privacy. The report notes: “FERPA, which applies to almost all public and private schools, provides the primary set of regulations governing student privacy in the US. Any agency or institution that violates FERPA regulations loses eligibility for federal funds. However, FERPA’s scope is limited to ‘educational records’; the legislation does not protect such items as data collected by education websites or digital ‘pupil-generated content’ (such as essays), unless PII is included in that information.

“Moreover, several FERPA exceptions allow student records to be disclosed to certain parties or under certain conditions without parental consent. The most significant exception is that without consent, school officials may release student records for any educational purpose they deem legitimate, as when an organization is conducting studies for or

on behalf of a school; records are also available to authorized representatives of the U.S. Comptroller General, U.S. Education Secretary, or state educational authorities.

“Changes to FERPA in 2008 and 2011 expanded the definitions of both school officials and authorized representatives. In one of the most important changes, the U.S. Department of Education now considers ‘school officials’ to include ‘contractors, consultants, volunteers, and other parties to whom an educational agency or institution has outsourced institutional services or functions it would otherwise use employees to perform.’

“This change has far-reaching implications for student privacy. For example, when school leaders sign a contract to use Google Apps for Education (GAFE), they assign Google the authority of “school official.” The Department also considers “authorized representatives” to be any individuals or entities that local or state educational authorities, U.S. Secretary of Education, or U.S. Comptroller General select as an authorized representative. As a result of these changes, schools may now provide data to private companies without parental consent. Significantly, these private companies are not named ‘partners,’ but rather ‘school officials’ or ‘authorized representatives.’

“The Children’s Online Privacy Protection Act (COPPA), which applies to children under the age of 13, requires companies to obtain parental consent before they can collect personal information from children for commercial purposes. In December 2012, the Federal Trade Commission (FTC) expanded several definitions under COPPA, increasing protection of children by accounting for new tracking technology. While these changes are significant, the law does not apply to teens. Teens are

especially at risk because they are online more than young children both in and out of school, and also because developmentally they are particularly susceptible to targeted marketing.” Reported in: *Washington Post*, May 17.

Orlando, Florida

Schools in Florida are renewing a program that monitors their students’ social media activity for criminal or threatening behavior, although it has caused some controversy since its adoption last year.

The school system in Orange County, where Orlando is located, recently told the *Orlando Sentinel* that the program, which partners the school system with local police departments, has been successful in protecting students’ safety, saying that it led to twelve police investigations in the past year. The school district says it will pay about \$18,000 annually for SnapTrends, the monitoring software used to check students’ activity.

SnapTrends collects data from public posts on students’ social media accounts by scanning for keywords that signify cases of cyberbullying, suicide threats, or criminal activity. School security staff then comb through flagged posts and alert police when they see fit. Research suggests that 23 percent of children and teens have been cyberbullied. Studies connecting social media and suicide have not shown definitive results, but there has been research that suggests that cyberbullying leads to suicide ideation more than traditional bullying.

Orange County Public Schools adopted the SnapTrends program as part of a “prevention and early intervention” program. After the Newtown, Connecticut, school shootings in 2012, the school participated in a sweeping technical review with law enforcement and state emergency experts with a focus on safety. They



recommended some sort of social media monitoring program, saying that threats can sometimes be spotted on social media postings. “We felt we needed to deal with these vulnerabilities,” Shari Bobinski, who manages media relations in the school system, said.

Orange County schools said that since implementing the software last year, it has run 2,504 automated searches, leading to 215 manual searches by school staff. Details of the police investigations that stemmed from searches in the past year have not been divulged by the school system. The school system said that it doesn’t want public details of the program to interfere with its effectiveness.

Bobinski, however, shared one anecdote from last year. The software flagged a female student for using the keyword “cutting” and the phrase “nobody will miss me.” Since the software gets a huge number of flags for words and phrases like these, the security staff delved deeper, investigating more posts by the student. They discovered that she had two conflicting social media accounts: one that told the story of a happy, normal girl, and the other of someone suffering from suicidal thoughts and depression. The school staff alerted police, who conducted a welfare check at the student’s home and informed her father. She eventually went into treatment.

The story exemplifies the kind of safety checks that social media monitoring offers. But Bradley S. Shear, a privacy and social media lawyer based in Bethesda, Maryland, expressed concerns about the unintended consequences of using software like SnapTrends. He’s uncomfortable with the collection and storing of information on students. “Is this data then gonna be tied to a student’s permanent school record? Does the company

have proper policies in place that delete this data after a certain period of time? These are some questions that need to be asked,” he said.

An example of an appropriate period of time for data to be stored, he suggested, would be until a year after the student graduates or until they turn eighteen—a guideline set by a California state law that aims to protect social media privacy for students monitored by schools.

Kids are very tech savvy, he emphasized, and are likely to find creative ways to evade monitoring. That would put their social media lives even further away from the watchful eyes of parents or other adults.

Shear also expressed fears of the inevitability of highly intrusive monitoring, such as collecting data on students during after-school hours or off school property. A software flag would require school staff and possibly police to track a student more closely. In Bobinski’s story of the suicidal student in Orange County, the original flag was set off on school property (SnapTrend’s “geofencing” technology limits monitoring within a location-boundary), but investigators delved into her public posts from after-school hours as she checked into her mental health status.

Orange County isn’t alone in choosing to monitor students. Schools in Alabama and California have adopted similar social-media-mining software. In Huntsville, Alabama, fourteen kids were expelled because of social media posts in 2014. The content of the posts was not made public, but a school board member said that expulsions result only from serious offenses involving drugs, weapons or sex. Twelve out of the fourteen were black, despite the schools’ population of about 40 percent black students and 60 percent white. The expulsions raised concerns from a county

commissioner that social media monitoring unfairly targeted black students. The case raises questions about which students are most vulnerable when digitally tracked by the school and police working in concert.

But Bobinski emphasized that the Orange County system respects student privacy and inspects student social media activity, which is public, only if software-flagged content causes concern. Online activity would only appear on a school record if it led to disciplinary action. “We’ve been very transparent about what we’re looking for,” she said. “And that is to keep our students, our staff and our facilities a safe learning environment.” She was not able to confirm how long social media data is stored by SnapTrends.

For Shear, the allocation of \$18,000 in school funds to implement SnapTrends that could be used for digital-minded education is particularly vexing. “[Schools] are not providing children the tools needed to protect their reputation, their privacy and to understand the law. Everything that these kids are doing online might have repercussions down the road,” he said.

“I think that’s something that’s missing in the conversation,” Shear continued. “I think that these companies are preying on the fears of these parents.” Reported in: *Washington Post*, April 22.

PRIVACY Washington, DC

The Obama administration is seeking to amend surveillance law to give the FBI explicit authority to access a person’s internet browser history and other electronic data without a warrant in terrorism and spy cases. The administration made a similar effort six years ago but dropped it after concerns were raised by privacy advocates and the tech industry.



FBI Director James B. Comey has characterized the legislation as a fix to “a typo” in the Electronic Communications Privacy Act, which he says has led some tech firms to refuse to provide data that Congress intended them to provide.

But tech firms and privacy advocates say the bureau is seeking an expansion of surveillance powers that infringes on Americans’ privacy.

Now, at the FBI’s request, some lawmakers are advancing legislation that would allow the bureau to obtain “electronic communication transactional records” using an administrative subpoena known as a national security letter. An NSL can be issued by the special agent in charge of a bureau field office without a judge’s approval.

Such records may include a person’s internet protocol address and how much time a person spends on a given site. But they don’t include content, such as the text of an e-mail or Google search queries. There’s also a limit to how much visibility the bureau would have into which part of a website a person had visited. For instance, according to the bureau, if the person went to any part of the *Washington Post’s* website, law enforcement would see only *washingtonpost.com*—nothing more specific.

Comey said that making this change to the law is the bureau’s top legislative priority this year. The inability to obtain the data with an NSL “affects our work in a very, very big and practical way,” he told the Senate Intelligence Committee in February.

The Senate panel recently voted out an authorization bill with the NSL amendment. The Senate Judiciary Committee is considering a similar provision introduced by Sen. John Cornyn (R-Texas) as an amendment to ECPA, a law governing domestic surveillance.

Cornyn said that what he characterized as a “scrivener’s error” in the law is “needlessly hamstringing our counterintelligence and counterterrorism efforts.”

But privacy groups and tech firms are again warning that the expansion of power would erode civil-liberties protections. The fix the FBI seeks would “dramatically expand the ability of the FBI to get sensitive information about users’ online activities without oversight,” said a coalition of privacy and civil society groups and industry organizations in a letter.

The new categories of information that could be collected using an NSL “would paint an incredibly intimate picture” of a person’s life, said the letter, signed by the American Civil Liberties Union, Amnesty International USA, the Computer & Communications Industry Association, Google, Facebook and Yahoo, among others. For example, a person’s browsing history, location information and certain email data could reveal details about a person’s political affiliation, medical conditions, religion and movements throughout the day, they said.

In addition, the NSL would come with a gag order preventing the company from disclosing it had a received a government request, said Neema Singh Guliani, ACLU legislative counsel. The letter noted that over the past ten years, the FBI has issued more than 300,000 NSLs, most of which had gag orders. “That’s the perfect storm of more information gathered, less transparency and no accountability,” Guliani said.

But a law passed last year, the USA Freedom Act, requires the Justice Department to review gag orders periodically to assess whether they are still justified.

The amendment being considered by the Judiciary Committee is part of a broader effort by lawmakers to

update ECPA to require law enforcement to get a warrant for all email content, regardless of whether it is one day or one year old.

Privacy groups and tech companies support the broader ECPA update, versions of which some lawmakers have sought for years. But the groups and tech organizations in their letter said that if the ECPA bill includes the NSL provision, they will pull their support.

A November 2008 opinion from the Justice Department’s Office of Legal Counsel made clear that ECPA allows the FBI to obtain with an NSL only four types of basic subscriber information from internet companies: name, address, length of service and telephone bill records. There is no reference in the law to browser history, for instance. The opinion said the four existing categories were “exhaustive.”

The FBI’s Office of General Counsel, however, has argued that electronic communication transactional records are the functional equivalent of telephone billing records. To eliminate any uncertainty, the FBI wants the law to explicitly cover such data.

Senators Patrick J. Leahy (D-VT), the ranking minority-party member on the Judiciary Committee, and Mike Lee (R-UT), a committee member, oppose the Cornyn amendment. They say they will push for a clean version of the ECPA update similar to a bill passed by the House earlier this year. Reported in: *Washington Post*, June 6.

Washington, DC

Federal Communications Commission chair Tom Wheeler made his case for an ambitious plan to better defend consumer data privacy on March 10. His proposal would effectively govern how Internet Service Providers (ISPs) can leverage user data for marketing and advertising purposes in the



same way that that the FCC already regulates data collected by phone companies.

“Think about it. Your ISP handles all of your network traffic,” Wheeler wrote in a Huffington Post op-ed. “That means it has a broad view of all of your unencrypted online activity—when you are online, the websites you visit, and the apps you use.”

Basically, since an ISP has access to every piece of unencrypted data its customers send along its network, it can build an incredibly detailed dossier of their online lives. And, up until now, the ISP could use that information anyway it saw fit. Wheeler wants that to change.

“The information collected by the phone company about your telephone usage has long been protected information,” he continued. “Regulations of the Federal Communications Commission (FCC) limit your phone company’s ability to repurpose and resell what it learns about your phone activity. The same should be true for information collected by your ISP.”

To that end, Wheeler has put forth a plan that would “empower consumers to ensure they have control over how their information is used by their Internet Service Provider.” In broad strokes, it would demand more transparency from ISPs on what information is being collected, give consumers the right to have meaningful control over that information, make it the ISP’s “duty” to secure and protect your data for the duration that it is on the ISP’s network.

In terms of user control, Wheeler proposes a three-tiered approach. The basic marketing of services would remain unchanged. “For example, your data can be used to bill you for telecommunications services and ensure your email arrives at its destination, and a broadband provider may use the fact that a consumer is streaming a lot

of data to suggest the customer may want to upgrade to another speed tier of service,” Wheeler wrote. However, any data used for affiliate marketing or otherwise shared would require an active opt-out from the user and all other forms of marketing would need the user to explicitly opt in.

As for ensuring data security, Wheeler’s proposal would only require ISPs to take “reasonable steps” to defend user data from snooping. There’s actually a lot less wiggle room for ISPs in that directive than you’d expect. “At a minimum,” Wheeler wrote, “it would require broadband providers to adopt risk management practices; institute personnel training practices; adopt strong customer authentication requirements; to identify a senior manager responsible for data security; and take responsibility for use and protection of customer information when shared with third parties.”

This proposal only applies Internet Service Providers. Websites like Facebook or Twitter would be exempt from these rule changes—namely because their operations are regulated by the Federal Trade Commission. The FCC will vote on Wheeler’s proposition on March 31, after a period of public comment from the American people. Reported in: engadget.com, March 10.

CHURCH AND STATE Dayton, Ohio

Wright-Patterson Air Force Base Medical Center has removed a Bible from a POW/MIA display after the Military Religious Freedom Foundation lodged a complaint, according to a base spokesperson.

Mikey Weinstein, MRFF founder and president, said the organization was contacted by thirty-one people who objected to the Bible as part of the table display, including 10 who identified themselves as Christians.

“They objected very clearly that having the Christian Bible on that table provided supremacy to one faith over all the other faiths, and since these are government facilities, that’s a direct violation of the no establishment clause of the First Amendment of the Bill of Rights of the US Constitution,” Weinstein said.

“In this instance, allowing that Christian Bible to be there is a very odious example of fundamentalist Christian triumphalism, supremacy, and exceptionalism and primacy,” he said. “Our veterans saw it, our members saw it. They’re not going to sit back and take this anymore.”

Weinstein said his group, which is based in Albuquerque, New Mexico, and represents more than 45,000 service members and veterans, has received complaints from throughout the country over religious displays. The group’s efforts have angered some, and Weinstein said an MRFF staffer resigned last week citing online threats to him and his family over the removal of Bibles at federal facilities.

The installation commander at Wright-Patterson, Colonel John M. Devillier, made the decision to remove the Bible from the display at the medical center last week “after thoroughly assessing the situation,” Wright-Patt spokeswoman Marie Vanover said.

“Mutual respect is an essential part of the Air Force culture and we must ensure we create an environment in which people can realize their highest potential regardless of one’s personal religious or other beliefs,” Vanover said in an email.

Richard Thompson, president and chief counsel of the Ann Arbor, Michigan-headquartered Thomas More Law Center, objected to the removal.

“The courts have said ceremonial displays not meant to proselytize



anyone is not considered an establishment of religion,” said Thompson. “It is there for someone to acknowledge or that person does not have to acknowledge it. . . . They can either accept the Bible being there or, if they are really offended by the Bible, they could turn away.”

Thompson said the base commander “capitulated” to the demand to remove the book. “We cannot separate God and the Judeo-Christian principles upon which our country is founded from the military who dedicate their lives, who put themselves in harm’s way, when they are performing their duties,” Thompson said. “And certainly had the commanding officer wanted to fight this attempt to intimidate them from removing the Bible, we would have been happy to represent the organization without charge and I think would have won the case.”

The center is a member of the Restore Military Religious Freedom Coalition.

Weinstein’s group also objected to the inclusion of Bibles in “POW/MIA Missing Man” displays at VA facilities in Akron and Youngstown following complaints, he said. Those too were removed.

“This is not Christian victimization,” he said. “This is Christian equalization. Why does the Christian book of faith get put into a solemn and critical memorial to that sacrifice of our wonderful members of the military, POWs and MIAs, over everybody else’s faith book?”

Volunteers and veterans organizations donated the Bibles for the two displays at the clinics and made the decision to remove them, according to Kristen Parker, a spokeswoman at the Louis Stokes Cleveland VA Medical Center.

“The Cleveland VA Medical Center honors and respects the humanity of all, and protects the freedoms

and rights guaranteed for each of us,” she said in an email. “Because the VA cannot endorse, promote or inhibit one religion over another, we couldn’t influence the final decision on whether or not the Bibles remained or were removed from the displays as the displays were donated and are maintained by volunteer organizations.”

The Cleveland VA brought the concerns of both sides to the groups, she added.

The Bible was removed in the Akron display, and volunteers replaced the religious book in Youngstown with a “prop book” to allow a veteran “to individualize the meaning behind the book when they pay their respects to the POW/MIA table,” Parker said. Reported in: *Dayton Daily News*, April 11.

Nashville, Tennessee

Tennessee Governor Bill Haslam has vetoed a controversial bill that would have made the Holy Bible the official state book of Tennessee. Haslam cited an opinion issued in 2015 by state Attorney General Herbert Slatery that said the bill could violate the state and federal constitutions.

“In addition to the constitutional issues with the bill, my personal feeling is that this bill trivializes the Bible, which I believe is a sacred text,” Haslam wrote in a letter to House Speaker Beth Harwell.

“If we believe that the Bible is the inspired word of God, then we shouldn’t be recognizing it only as a book of historical and economic significance,” the Republican governor said. “If we are recognizing the Bible as a sacred text, then we are violating the Constitution of the United States and the Constitution of the State of Tennessee by designating it as the official state book.”

Had Haslam signed the bill, Tennessee would have become the first

state in the nation to make the Holy Bible its official state book. The veto was just Haslam’s fourth in his five years as governor. None of his other three vetoes were overturned. Tennessee’s governor has relatively weak veto power: It takes only a simple majority in both chambers to overrule the governor’s decision.

The House passed the measure fifty-five to thirty-eight during the 2015 legislative session, but it failed to pass through the state Senate during that legislative session. But senators pushed forward with the legislation again this year, despite opposition from Ramsey and Senate Majority Leader Mark Norris.

Supporters tried to argue the move would highlight the economic and historical impact the Bible has had on Tennessee, saying printing the Bible is a “multimillion-dollar industry” for the state. Opponents argued the bill formalized a governmental endorsement of Christianity, while others, like Haslam, argued the move would trivialize the Bible by placing it next to the tomato—the state fruit—and raccoon—the state animal.

“I strongly disagree with those who are trying to drive religion out of the public square. All of us should and must bring our deepest beliefs to the places we are called, including governmental service,” Haslam wrote in the letter to Harwell.

“Men and women motivated by faith have every right and obligation to bring their belief and commitment to the public debate. However, that is very different from the governmental establishment of religion that our founders warned against and our Constitution prohibits.”

The potential for a veto override worried Annie Laurie Gaylor, founder and president of the Wisconsin-based Freedom from Religion Foundation. Still, her first word



when told Haslam had vetoed the bill was “hallelujah.”

“Government shouldn’t take sides on religion,” Gaylor said. “I think we’re turning a corner in our country that we are seeing a Republican governor in the South write a very firm defense of separation of church and state and understanding of the establishment clause and not apologizing about it.”

Hedy Weinberg, executive director of the American Civil Liberties Union of Tennessee, thanked the governor for his decision. The ACLU had opposed the legislation as it made its way through the Tennessee General Assembly.

“We applaud Governor Haslam for his leadership in sending a clear message that Tennessee values and respects the religious freedom of all

Tennesseans,” Weinberg said in an emailed statement.

“Religion thrives when it is left in the hands of families and faith communities. Publicly elected government officials cannot use their official positions to favor one religious belief over another. The governor’s veto of this unconstitutional legislation ensures that religious freedom can flourish in Tennessee.”

Roger Gannam, senior litigation counsel for Liberty Counsel, called the governor’s veto disappointing and said Haslam’s reasoning is based on an “erroneous interpretation of the Constitution.”

After lawsuit concerns were raised about the measure, Gannam’s organization offered its legal services free of charge if the state opted out of defending the bill.

“The government’s adoption of the Bible as the state book would not be an endorsement of Christianity or Judaism or the contents of the book as religion,” Gannam said. “But certainly could have adopted the Bible as a proper recognition of the influence it had on the foundations of Tennessee law and political thought.”

David Fowler is a former state senator and president of the Family Action Council of Tennessee, which supported making the Bible the official state book.

“The legislature has spoken and so has the governor,” he said. “Now the ball is back in the legislature’s court, and, as before, we defer to their judgment in this matter.” Reported in: *The Tennessean*, April 14.



LIBRARIES

Billings, Montana

Billings Library patrons can continue to check out *Fifty Shades of Grey* after a review May 12 by the library's board of trustees. The trustees voted unanimously during their monthly board meeting to follow a staff recommendation not to remove an audio version of the book as requested by Ronald L. Penn of Billings.

In a statement of concern dated March 16, Penn noted that he completed the audio book through to the end. He called it "poor literature; very, very erotic" with "all kinds of sex, sex sadism and masochism."

"Even though this was a best-seller," he wrote, "I have concerns about it being in a public library."

Sales of the E. L. James book—numbering more than 100 million worldwide—is a significant reason the book is available at the Billings Public Library, Assistant Director Michael Carlson told the board.

"It didn't receive very good (professional) reviews, but it's basically there due to consumer demand," Carlson said. "Our selection policy includes patron request, which figures heavily into what we buy. This fits our criteria."

The library also has *Fifty Shades of Grey* available in book and e-book form. Since the library acquired the audio version in 2012, it has been checked out thirty-nine times. A staff memo prepared by Carlson and Library Director Bill Cochran stated that six Montana libraries and 371 around the nation offer the audio book.

Fifty Shades of Grey, which was made into a 2015 movie, is most commonly classified as erotic fiction. It traces the relationship between a college graduate, Anastasia Steele, and a young business magnate, Christian Grey. Amazon.com describes the story as being "notable for its erotic scenes featuring

elements of sexual practices involving bondage/discipline, dominance/submission and sadism/masochism."

In a related development, a Billings library policy that provides patrons with four computers with unfiltered access to the internet will remain in place.

In January, the Billings City Council asked the library board to create a policy for blocking access to obscene material on the library's public computers. Eighty-five of the computers have filtered internet access. The four computers that are unfiltered have recessed monitors, making it difficult for passersby to see what's on the screen.

The Billings Public Library Board voted unanimously June 9 to leave its current internet usage policy in place. In a memo to the library board, Library Director Bill Cochran and Assistant Director Michael Carlson said that during the 2014–15 fiscal year, more than 85,000 people used library computers to access the internet or the library's Wi-Fi service. By board directive, all computers in areas used by minors are filtered, and all users under the age of thirteen have the filter applied to their sessions, even if they are using a computer in another area—unless a parent or guardian has authorized unfiltered use.

"The Billings Public Library is the only large public library in Montana that filters internet work stations at all," the librarians wrote to the board. "We are already the most restrictive large library in the state."

Filtering internet access at public libraries can raise First Amendment challenges, the two librarians noted, unless the library can unblock filters on request. The Billings Public Library cannot do that without spending up to \$8,000 for new software and equipment, in addition to ongoing costs.

The city council's request came during its January 25 meeting after Councilman Chris Friedel, according to the meeting minutes, "referenced a recent news story describing an incident at the library" in which a library patron walked by a computer and saw obscene material being viewed by another user.

Library Board Member Roger Young said he wondered why the age is set at thirteen for access to the unfiltered computers—and then he answered his own question. "Some young people are now reading books I wasn't ready to read at that age," he said.

Most of the people he sees at the four unfiltered computers "are looking at financial reports or tax statements," he said, not pornographic images. "They are people who want their private stuff to remain private," he said.

"I don't think we should be filtering anything," said Board Member Bernard Rose. "It becomes a slippery slope."

The library board is made up of six appointees from the city and three from the county. According to the meeting minutes, Cochran told the city council that the city council "does not have the authority to adopt a policy for the library; that duty lies with the Library Board."

"I think Bill and Michael have put together a very good package," said Board Chair Stella Fong. "They can now go before the city council in July." Reported in: *Billings Gazette*, May 12, June 10.

SCHOOL

Lebanon, Kentucky

After an overwhelming show of support from educators, parents, and the local and larger community, an open school district review committee in Marion County voted to keep John



Green's *Looking for Alaska* in the high school curriculum.

The committee meeting including a presentation by Emily Veatch, defending the value of the book for high school seniors. Planning to use the novel in her senior English class at Marion County High School in Lebanon, the teacher sent home permission slips so parents would have the option, if they wanted, to keep their child from reading the book. One parent took Veatch up on that offer for her child, who would leave the room during those lessons.

"But the parent didn't want other children discussing it either," says Amy Morgeson, director of the Marion County Public Library. That parent filed a challenge against Green's novel, igniting a reaction from students, alumni, community members—and even John Green himself. The author took to Facebook, encouraging others to express their thoughts in support of the book, and Veatch, by email—and taking to task those who had chosen to judge the title "on individual scenes ripped from their context," he wrote on his Facebook page.

Marion County Public Library's genealogy librarian Jama Watts built

a banned books display with all of Green's titles. "We couldn't believe what was happening," she said. "I ran with [the display], and kind of went crazy, over the top."

Green's title stood at the top of the American Library Association's (ALA) list of the ten most frequently challenged books of 2015, with reasons noted as "Offensive language, sexually explicit, and unsuited for age group." Reported in: *School Library Journal*, May 16.

PRISON West Liberty, Kentucky

The Kentucky Commissioner of Corrections has said that a minimum and medium security prison in West Liberty can no longer enforce a mail policy that prohibited prisoners from receiving books and magazines that "promote homosexuality." In just a four-month period in 2015, the Eastern Kentucky Correctional Complex (EKCC) used the policy thirteen different times to confiscate mail including magazines like *Out* and *The Advocate*.

On June 2, the Kentucky Department of Corrections issued a state-wide memo implementing substantial changes to the department's

regulations governing prisoner mail. The changes were effective immediately and were the direct result of an ACLU investigation into mail regulations at Kentucky's prisons. The ACLU previously sent a letter demanding that EKCC end its policy of censoring mail that "promotes homosexuality" because it violated the free speech rights of prisoners and publishers.

ACLU of Kentucky Legal Director William Sharp said, "The outdated mail policies that prompted our investigation barred prisoners from receiving mail that 'promotes homosexuality,' but such policies single out pro-LGBT messages for unfavorable treatment. And that type of viewpoint discrimination by the government is precisely what the First Amendment is designed to prevent."

ACLU LGBT Project Staff Attorney Ria Tabacco Mar, who collaborated on the investigation, said, "Gay people are entitled to equal dignity, inside and outside of our nation's prisons. This policy change is a positive step forward for prisoners in Kentucky, and we appreciate the commissioner's decision to timely address this problem." Reported in: aclu.org, June 6.