newsletter on intellectual freedom

IFC ALA

Editor: Henry Reichman, California State University, East Bay
Founding Editor: Judith F. Krug (1940–2009)
Publisher: Barbara Jones
Office for Intellectual Freedom, American Library Association

ISSN 0028-9485

November 2010 ☐ Vol. LIX ☐ No. 6 ☐ www.ala.org/nif

Texas board warns against "pro-Islamic" texts

The Texas state board of education, which earlier this year stirred national controversy with its overhaul of social studies standards, narrowly adopted a resolution September 24 warning textbook publishers against infusing their materials with "pro-Islamic/anti-Christian distortions."

The resolution was approved by a 7-6 vote by social conservatives on the board, who warned of what they described as a creeping Middle Eastern influence in the nation's publishing industry. The resolution declares that a "pro-Islamic/anti-Christian bias has tainted some past Texas social studies textbooks," and that the board should reject any future textbooks that favor one religion over another.

As an example of perceived bias, the resolution cited one world history textbook that devoted "120 student text lines to Christian beliefs, practices, and holy writings, but 248 (more than twice as many) to those of Islam." It added that the book highlights "Crusaders' massacre of Muslims at Jerusalem in 1099," but the resolution cites massacres by Muslims that were excluded.

Proponents of the measure, including board members and witnesses, argued that world history textbooks spend too much space discussing Islam, and in too positive a light, when compared with Christianity.

One parent said she read through a section of her son's history book and found four pages on Islam and only one reference to the Bible. Asked by a board member what the section was titled, she replied, "Life in the Eastern Hemisphere."

One of the board's most conservative members, Don McLeroy, who is serving the last months of his term, said textbook publishers have been biased in favor of Islam for years. He argued that "one of the greatest gifts to the world was medieval Christendom," citing an essay he had written in 2002 titled "The Gift of Medieval Christendom to the World."

Opponents of the resolution said they agreed with the resolution's ostensible purpose, to make sure all the major world religions were treated fairly in textbooks. But, they argued, the resolution only mentioned "pro-Islamic, anti-Christian distortions."

"That's offensive language," said board member Lawrence Allen. "You're trying to use one religion over another, and I don't think that's what we're trying to do here."

Opponents tried to amend the language to leave out references to Islam and Christianity. That motion failed, 6 to 7. They also argued that the resolution itself inaccurately described information in textbooks, and moved to postpone a vote until November in order to do

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Published by the ALA Intellectual Freedom Committee,
Martin Garnar, Chair

in this issue

targets of the censor

READ BANNED BOOKS

Views of contributors to the *Newsletter on Intellectual Freedom* are not necessarily those of the editors, the Intellectual Freedom Committee, or the American Library Association.

(ISSN 0028-9485)

Newsletter on Intellectual Freedom is published bimonthly (Jan., Mar., May, July, Sept., Nov.) by the American Library Association, 50 E. Huron St., Chicago, IL 60611. The newsletter is also available online at www.ala.org/nif. Subscriptions: $70 per year (print), which includes annual index; $50 per year (electronic); and $85 per year (both print and electronic). For multiple subscriptions to the same address, and for back issues, please contact the Office for Intellectual Freedom at 800-545-2433, ext. 4223 or oif@ala.org. Editorial mail should be addressed to the Office of Intellectual Freedom, 50 E. Huron St., Chicago, Illinois 60611. Periodical postage paid at Chicago, IL and at additional mailing offices. POSTMASTER: send address changes to Newsletter on Intellectual Freedom, 50 E. Huron St., Chicago, IL 60611.

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more research. That motion also failed.

One woman who argued in favor of the resolution cried out, "I believe Middle Easterners have bought the textbooks! They've bought everything else here!" She said Middle Eastern publishers should be required to proclaim their pro-Islam bias.

"I'm biased in favor of Christianity," she said. "I'm biased in favor of America!"

Although the resolution was nonbinding, Texas school board decisions garner attention because, as one of the country's largest markets, textbook makers have traditionally written their books, sold nationally, to the Texas standards.

"Publishers are listening today," said one conservative board member, David Bradley. "And they're very sensitive to it."

The Texas Freedom Network, an advocacy group that is a frequent critic of the board's conservatives, said the resolution's claims of bias were "superficial and grossly misleading." The Texas Faith Network, which is affiliated with that group, organized an open letter to the board from interfaith leaders.

"[W]e write to urge you to reject the misleading and inflammatory resolution," the letter said, calling it "a thinly veiled attempt to generate fear and promote religious intolerance, which as we have sadly seen before in history, can quickly lead to violence."

The Texas board, led by a bloc of social conservatives, has repeatedly found itself engaged in politically tinged debates, especially over the teaching of social studies and science. Future boards that will choose the state's next generation of social studies texts would not be bound by the resolution.

In an interview in advance of the meeting, Don McLeroy, a Republican on the GOP-controlled board who backed the resolution, said he believes world history textbooks have long failed to adequately discuss Judaism and Christianity and their importance in history. "This is bringing some needed focus on" those books, he said.

Critics noted that the resolution refers to textbooks that are no longer used in Texas, as they were replaced in 2003. But McLeroy explained that the resolution dealt with prior textbooks because board rules prohibit a resolution on the current textbooks. And he believes the perceived bias is still present.

Also speaking in advance of the meeting, Michael Soto, a Democrat vying for a board seat in November, lashed out at what he called a "pointlessly distracting, embarrassingly intolerant resolution."

"If this narrow-minded resolution were being considered anywhere besides the Texas state board of education," he said in a statement, "I would assume that I was reading satire rather than an earnest attempt at public policymaking."

Jay A. Diskey, the executive director of the school division of the Association of American Publishers, said that publishers "go to great lengths to create accurate and unbiased books, and there is no good reason for them to submit things that would be biased." He added, "However, textbooks have long been in the cross hairs in America's cultural wars, and depending on one's political and social viewpoints, one might find something in a social studies textbook" to dislike.

This was not the first time that the treatment of Islam in U.S. textbooks has come under fire. A 2008 report issued by the American Textbook Council, an independent research organization based in New York City, concluded that history textbooks in U.S. middle and high schools generally present "an incomplete and confected view of Islam that misrepresents its foundations and challenges to international security."

But the author of that report, Gilbert T. Sewall, the director of the textbook council, distanced himself from the Texas resolution, saying he was troubled by some of the accusations included in the resolution. He wrote in an e-mail that the resolution "would be an object of ridicule and embarrassment for Texas and conservatives." Reported in: Education Week online, September 24; talkingpoints memo.com, September 24. ☐

U.S. tries to make it easier to wiretap the Internet

Federal law enforcement and national security officials are preparing to seek sweeping new regulations for the Internet, arguing that their ability to wiretap criminal and terrorism suspects is "going dark" as people increasingly communicate online instead of by telephone.

Essentially, officials want Congress to require all services that enable communications—including encrypted e-mail transmitters like BlackBerry, social networking Web sites like Facebook and software that allows direct "peer to peer" messaging like Skype—to be technically capable of complying if served with a wiretap order. The mandate would include being able to intercept and unscramble encrypted messages.

The bill, which the Obama administration plans to submit to lawmakers next year, raises fresh questions about how to balance security needs with protecting privacy and fostering innovation. And because security services around the world face the same problem, it could set an example that is copied globally.

James X. Dempsey, vice president of the Center for Democracy and Technology, an Internet policy group, said the proposal had "huge implications" and challenged "fundamental elements of the Internet revolution"—including its decentralized design.

"They are really asking for the authority to redesign services that take advantage of the unique, and now pervasive, architecture of the Internet," he said. "They basically want to turn back the clock and make Internet services function the way that the telephone system used to function."

But law enforcement officials contend that imposing such a mandate is reasonable and necessary to prevent the erosion of their investigative powers. "We're talking about lawfully authorized intercepts," said Valerie E. Caproni, general counsel for the Federal Bureau of Investigation. "We're not talking expanding authority. We're talking about preserving our ability to execute our existing authority in order to protect the public safety and national security."

Investigators have been concerned for years that changing communications technology could damage their ability to conduct surveillance. In recent months, officials from the FBI, the Justice Department, the National Security Agency, the White House and other agencies have been meeting to develop a proposed solution.

There is not yet agreement on important elements, like how to word statutory language defining who counts as a communications service provider, according to several officials familiar with the deliberations.

But they want it to apply broadly, including to companies that operate from servers abroad, like Research in Motion, the Canadian maker of BlackBerry devices. In recent months, that company has come into conflict with the governments of Dubai and India over their inability to conduct surveillance of messages sent via its encrypted service.

In the United States, phone and broadband networks are already required to have interception capabilities, under a 1994 law called the Communications Assistance to Law Enforcement Act. It aimed to ensure that government surveillance abilities would remain intact during the evolution from a copper-wire phone system to digital networks and cellphones.

Often, investigators can intercept communications at a switch operated by the network company. But sometimes—like when the target uses a service that encrypts messages between his computer and its servers—they must instead serve the order on a service provider to get unscrambled versions.

Like phone companies, communication service providers are subject to wiretap orders. But the 1994 law does not apply to them. While some maintain interception capacities, others wait until they are served with orders to try to develop them.

The FBI's operational technologies division spent $9.75 million last year helping communication companies—including some subject to the 1994 law that had difficulties—do so. And its 2010 budget included $9 million for a "Going Dark Program" to bolster its electronic surveillance capabilities.

Beyond such costs, Caproni said, FBI efforts to help retrofit services have a major shortcoming: the process can delay their ability to wiretap a suspect for months. Moreover, some services encrypt messages between users, so that even the provider cannot unscramble them.

There is no public data about how often court-approved surveillance is frustrated because of a service's technical design. But as an example, one official said, an investigation into a drug cartel earlier this year was stymied because smugglers used peer-to-peer software, which is difficult to intercept because it is not routed through a central hub. Agents eventually installed surveillance equipment in a suspect's office, but that tactic was "risky," the official said, and the delay "prevented the interception of pertinent communications."

Moreover, according to several other officials, after the failed Times Square bombing in May, investigators discovered that the suspect, Faisal Shahzad, had been communicating with a service that lacked prebuilt interception capacity. If he had aroused suspicion beforehand, there would have been a delay before he could have been wiretapped.

To counter such problems, officials are coalescing around several of the proposal's likely requirements:

- Communications services that encrypt messages must have a way to unscramble them.
- Foreign-based providers that do business inside the United States must install a domestic office capable of performing intercepts.
- Developers of software that enables peer-to-peer communication must redesign their service to allow interception.

Providers that fail to comply would face fines or some other penalty. But the proposal is likely to direct companies to come up with their own way to meet the mandates. Writing any statute in "technologically neutral" terms would also help prevent it from becoming obsolete, officials said.

Even with such a law, some gaps could remain. It is not clear how it could compel compliance by overseas services that do no domestic business, or from a "freeware" application developed by volunteers.

In their battle with Research in Motion, countries like Dubai have sought leverage by threatening to block BlackBerry data from their networks. But Caproni said the FBI did not support filtering the Internet in the United States.

Still, even a proposal that consists only of a legal mandate is likely to be controversial, said Michael A. Sussmann, a former Justice Department lawyer who advises communications providers. "It would be an enormous change for newly covered companies," he said. "Implementation would be a huge technology and security headache, and the investigative burden and costs will shift to providers."

Several privacy and technology advocates argued that requiring interception capabilities would create holes that would inevitably be exploited by hackers.

Steven M. Bellovin, a Columbia University computer science professor, pointed to an episode in Greece: In 2005, it was discovered that hackers had taken advantage

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publisher agrees to cut "pro-creationism" material from high school science textbook

The publishers of a marine-science textbook that critics say contains pro-creationism material has agreed to remove two offending pages from editions sold to Florida schools, state officials said.

An advisory group, made up mostly of educators, that reviewed the book on CD-ROM recommended that *Life on an Ocean Planet* be approved only if the pages were cut, a participant said. The Florida Department of Education said the publisher has agreed.

Florida Citizens for Science, an advocacy group active in the push for new science standards, wrote Education Commissioner Eric Smith earlier about the book. The group asked Smith—who has final say—to review it himself before deciding whether to put it on the state-approved list.

The group's president, Joe Wolf, said the pages contained "bad science" that is "at odds with state standards" and needed to be removed from the print and computer-based versions of the textbook. The pages cite the work of a man who testified, during an Arkansas trial, for the teaching of creationism in schools.

"The first thing I noticed is just plain bad biology," said David Campbell, a Clay County teacher who was on the committee and voted not to recommend the book.

Florida adopted new science standards in 2008 amid a controversial debate about evolution. The new standards require the topic be taught. Reported in: *Orlando Sentinel*, September 23. ☐

will privatized libraries uphold intellectual freedom?

A private company in Maryland has taken over public libraries in ailing cities in California, Oregon, Tennessee and Texas, growing into the country's fifth-largest library system. Now the company, Library Systems & Services, Inc., has been hired for the first time to run a system in a relatively healthy city, Santa Clarita, California, setting off an intense and often acrimonious debate about the role of outsourcing in a ravaged economy and about the potential impact of such practices on public libraries' commitment to intellectual freedom.

A $4 million deal to run the three libraries in Santa Clarita will permit the company to demonstrate that a dose of private management can be good for communities, whatever their financial situation. But in an era when outsourcing is most often an act of budget desperation—with janitors, police forces and even entire city halls farmed out in one town or another—the contract in Santa Clarita has touched a deep nerve and begun a round of second-guessing.

Can a municipal service like a library hold so central a place that it should be entrusted to a profit-driven contractor only as a last resort—and maybe not even then?

"There's this American flag, apple pie thing about libraries," said Frank A. Pezzanite, the outsourcing company's chief executive. He has pledged to save $1 million a year in Santa Clarita, mainly by cutting overhead and replacing unionized employees. "Somehow they have been put in the category of a sacred organization."

The company, known as L.S.S.I., runs 14 library systems operating 63 locations. Its basic pitch to cities is that it fixes broken libraries—more often than not by cleaning house.

"A lot of libraries are atrocious," Pezzanite said. "Their policies are all about job security. That's why the profession is nervous about us. You can go to a library for 35 years and never have to do anything and then have your retirement. We're not running our company that way. You come to us, you're going to have to work."

The members of the Santa Clarita City Council who voted to hire L.S.S.I. acknowledged there was no immediate threat to the libraries. The council members said they want to ensure the libraries' long-term survival in a state with increasingly shaky finances.

Until now, the three branch locations were part of the Los Angeles County library system. Under the new contract, the branches will be withdrawn from county control and all operations—including hiring staff and buying books—ceded to L.S.S.I.

"The libraries are still going to be public libraries," said the mayor pro tem, Marsha McLean. "When people say we're privatizing libraries, that is just not a true statement, period."

Library employees are furious about the contract. But the reaction has been mostly led by patrons who say they cannot imagine Santa Clarita with libraries run for profit.

"A library is the heart of the community," said one opponent, Jane Hanson. "I'm in favor of private enterprise, but I can't feel comfortable with what the city is doing here." Hanson and her husband, Tom, go to their local branch every week or two to pick up tapes for the car and books to read after dinner.

The suggestion that a library is different—and somehow off limits to the outsourcing fever—has been echoed wherever L.S.S.I. has gone. The head of the county library system, Margaret Donnellan Todd, said L.S.S.I. is viewed as an unwelcome outsider.

"There is no local connection," she said. "People are receiving superb service in Santa Clarita. I challenge that L.S.S.I. will be able to do much better."

Mrs. Hanson, who is 81 and has been a library patron for nearly 50 years, was so bothered by the outsourcing contract that she became involved in local politics for the first time since 1969, when she worked for a recall movement related to the Vietnam War.

She drew up a petition warning that the L.S.S.I. contract would result in "greater cost, fewer books and less access," with "no benefit to the citizens." Using a card table in front of the main library branch, she gathered 1,200 signatures in three weekends.

L.S.S.I. says none of Hanson's fears are warranted, but the anti-outsourcing forces continue to air their suspicions at private meetings and public forums, even wondering whether a recall election is feasible.

"Public libraries invoke images of our freedom to learn, a cornerstone of our democracy," Deanna Hanashiro, a retired teacher, said at the most recent city council meeting.

Frank Ferry, a Santa Clarita councilman, dismissed the criticism as the work of the Service Employees International Union, which has 87 members in the libraries. The union has been distributing red shirts defending the status quo. "Union members out in red shirts in defense of union jobs," Ferry said.

Library employees are often the most resistant to his company, said Pezzanite, a co-founder of L.S.S.I.—and, he suggested, for reasons that only reinforce the need for a new approach. "Pensions crushed General Motors, and it is crushing the governments in California," he said. While the company says it rehires many of the municipal librarians, they must be content with a 401(k) retirement fund and no pension.

L.S.S.I. got its start 30 years ago developing software for government use, then expanded into running libraries for federal agencies. In the mid-1990s, it moved into the municipal library market, and now, when ranked by number of branches, it places immediately after Los Angeles County, New York City, Chicago and the City of Los Angeles.

The company is majority owned by Islington Capital Partners, a private equity firm in Boston, and has about $35 million in annual revenue and 800 employees. Officials would not discuss the company's profitability.

Some L.S.S.I. customers have ended their contracts, while in other places, opposition has faded with time. In Redding, California, Jim Ceragioli, a board member of the Friends of Shasta County Library, said he initially counted himself among the skeptics. But he has since changed his mind. "I can't think of anything that's been lost," Ceragioli said.

The library in Redding has expanded its services and hours. And the volunteers are still showing up—even if their assistance is now aiding a private company. "We volunteer more than ever now," Ceragioli said. Reported in: *New York Times*, September 26. ☐

Pentagon to buy books to keep their contents secret

The Defense Department is buying and destroying the entire uncensored first printing of *Operation Dark Heart*, by Anthony Shaffer, a lieutenant colonel in the Army Reserve and former Defense Intelligence Agency officer, in the name of protecting national security. Defense Department officials have negotiated to buy and destroy all 10,000 copies of the first printing of an Afghan war memoir they say contains intelligence secrets.

The book's publication has divided military security reviewers and highlighted the uncertainty about what information poses a genuine threat to security.

Disputes between the government and former intelligence officials over whether their books reveal too much have become commonplace. But veterans of the publishing industry and intelligence agencies could not recall another case in which an agency sought to dispose of a book that had already been printed.

Army reviewers suggested various changes and redactions and signed off on the edited book in January, saying they had "no objection on legal or operational security grounds," and the publisher, St. Martin's Press, planned for an August 31 release.

But when the Defense Intelligence Agency saw the manuscript in July and showed it to other spy agencies, reviewers identified more than 200 passages suspected of containing classified information, setting off a scramble by Pentagon officials to stop the book's distribution.

Release of the book "could reasonably be expected to cause serious damage to national security," Lt. Gen. Ronald L. Burgess Jr., the DIA director, wrote in an August 6 memorandum. He said reviewers at the Central Intelligence Agency, National Security Agency and United States Special Operations Command had all found classified information in the manuscript. By the time the DIA objected, however, several dozen copies of the unexpurgated 299-page book had already been sent out to potential reviewers, and some copies found their way to online booksellers.

The dispute arose as the Obama administration is cracking down on disclosures of classified information to the news media, pursuing three such prosecutions to date, the first since 1985. Separately, the military has charged an Army private with giving tens of thousands of classified documents to the organization WikiLeaks.

Steven Aftergood, who directs the Project on Government Secrecy at the Federation of American Scientists, said the case showed that judgments on what is classified "are often arbitrary and highly subjective." But in this case, he said, it is possible that DIA reviewers were more knowledgeable than their Army counterparts about damage that disclosures might do.

Aftergood, who generally advocates open government but has been sharply critical of WikiLeaks, said the government's move to stop distribution of the book would draw greater attention to the copies already in circulation. "It's an awkward set of circumstances," he said. "The government is going to make this book famous."

Colonel Shaffer, his lawyer, Mark S. Zaid, and lawyers for the publisher reached an agreement with the Pentagon over what will be taken out of a new edition that was published September 24, with the allegedly classified passages blacked out.

Among hundreds of supposed secrets Pentagon reviewers blacked out in the new, censored edition was the nickname of the National Security Agency's headquarters in Fort Meade, Maryland—The Fort—which has been familiar for decades to neighbors and government workers alike.

Another supposed secret removed from the second printing: the location of the Central Intelligence Agency's training facility—Camp Peary, Virginia, a fact discoverable from Wikipedia. And the name and abbreviation of the Iranian Revolutionary Guard Corps, routinely mentioned in news articles. And the fact that Sigint means "signals intelligence."

Not only did the Pentagon black out Colonel Shaffer's cover name in Afghanistan, Chris Stryker, it deleted the source of his pseudonym: the name of John Wayne's character in the 1949 movie "The Sands of Iwo Jima."

The redactions offer a rare glimpse behind the bureaucratic veil that cloaks information the government considers too important for public airing.

Several recent books by former spies and soldiers show the government's editing with blacked-out passages, a gimmick that publishers use to give a book an insider's feel. The reader can only guess at what is concealed. But in the case of Colonel Shaffer's book, uncensored advance copies—possibly as many as 100—were distributed by St. Martin's Press before military officials found what they thought were security lapses.

The list of "key characters" in the initial printing is gone, as is the blurb on the original cover from a former Defense Intelligence Agency director, Lt. Gen. Patrick M. Hughes, who had called it "one terrific book."

Black ink obscures Colonel Shaffer's descriptions of intelligence operations in Afghanistan, including vague references to NSA communications intercepts. One deleted passage, for instance, describes a plan by NSA technicians to retrofit an ordinary-looking household electronic device and place it in an apartment near a suspected militant hideout in Pakistan. "The collection device would function like a sponge, soaking up any low-level signals too faint to be detected by NSA's more-distant devices," Colonel Shaffer wrote.

The Pentagon's intervention greatly increased interest in the book: one uncensored copy sold for more than $2,000 on eBay, and when the story broke preorders for the new edition pushed the book as high as No. 4 among best sellers on Amazon.

The Defense Department's handling of Colonel Shaffer's account of his experiences in Afghanistan in 2003 appears to have been bungled from the beginning. A Pentagon spokesman, Cmdr. Bob Mehal, said the book had not received a proper "information security review" initially and that officials were working "closely and cooperatively" with the publisher and author to resolve the problem.

In a brief telephone interview before Army superiors asked him not to comment further, Colonel Shaffer said he did not think it contained damaging disclosures. "I worked very closely with the Army to make sure there was nothing that would harm national security," he said.

"There's smart secrecy and stupid secrecy, and this whole episode sounds like stupid secrecy," said Gabriel Schoenfeld of the Hudson Institute, a conservative scholar whose book *Necessary Secrets* defends protecting classified information. Schoenfeld said military officials might have felt compelled to block Colonel Shaffer's discussions of jobs and operations they believed to be classified for fear that doing nothing would set a perilous precedent.

But Thomas S. Blanton, director of the National Security Archive at George Washington University, said the fact that censored and uncensored copies of the book were public would only call attention to the alleged secrets. "They're flagging the supposedly dangerous stuff," Blanton said. And, he said, labeling facts that are common knowledge undermines the classification system.

A Pentagon spokesman, Colonel David Lapan, said he could not discuss specific redactions "because the information in question is considered classified."

In a statement released by St. Martin's Press, Colonel Shaffer suggested that the changes inadvertently offered some insight. "While I do not agree with the edits in many ways," Colonel Shaffer wrote, "the Defense Department redactions enhance the reader's understanding by drawing attention to the flawed results created by a disorganized and heavy handed military intelligence bureaucracy."

Operation Dark Heart is a breezily written, first-person account of Colonel Shaffer's five months in Afghanistan in 2003, when he was a civilian DIA officer based at Bagram Air Base near Kabul. He worked undercover, using the pseudonym "Christopher Stryker," and was awarded a Bronze Star for his work. Colonel Jose R. Olivero of the Army, who recommended Colonel Shaffer for the honor, wrote that he had shown "skill, leadership, tireless efforts and unfailing dedication."

But after 2003, Colonel Shaffer was involved in a dispute over his claim that an intelligence program he worked for, code named Able Danger, had identified Mohammed Atta as a terrorist threat before he became the lead hijacker in the Sept. 11, 2001, attacks. An investigation by the Defense Department's inspector general later concluded that the claim was inaccurate.

In 2004, after Colonel Shaffer returned from another brief assignment in Afghanistan, DIA officials charged him with violating several agency rules, including claiming excessive expenses for a trip to Fort Dix, N.J. Despite the DIA accusations, which resulted in the revocation of his security clearance, the Army promoted him to lieutenant colonel from major in 2005. He was effectively fired in 2006 by DIA, which said he could not stay on without a clearance, and now works at a Washington research group, the Center for Advanced Defense Studies.

Even before the Able Danger imbroglio, Colonel Shaffer admits in his book, he was seen by some at DIA as a

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plaintiff who challenged FBI's national security letters reveals concerns

For six years, Nicholas Merrill has lived in a surreal world of half-truths, where he could not tell even his fiancee, his closest friends or his mother that he is "John Doe"—the man who filed the first-ever court challenge to the FBI's ability to obtain personal data on Americans without judicial approval.

Friends would mention the case when it was in the news and the normally outspoken Merrill would change the subject. He would turn up at the federal courthouse to hear the arguments, and he would realize that no one knew he was the plaintiff challenging the FBI's authority to issue "national security letters," as they are known, and its ability to impose a gag on the recipient.

Now, following the partial lifting of his gag order in August as a result of an FBI settlement, Merrill can speak openly for the first time about the experience, although he cannot disclose the full scope of the data demanded.

"To be honest, I'm having a hard time adjusting," said the 37-year-old Manhattan native. "I've spent so much time never talking about it. It's a weird feeling."

Civil liberties advocates hope that Merrill's case will inspire others who have received the FBI's letters and have concerns to come forward, and to inform the public debate on the proper scope of the government's ability to demand private data on Americans from Internet and other companies for counterterrorism and intelligence investigations.

"One of the most dangerous and troubling things about the FBI's national security letter powers is how much it has been shrouded in secrecy," said Melissa Goodman, a lawyer with the American Civil Liberties Union who helped Merrill sue the government in April 2004 and was one of only a handful of people outside the FBI—all lawyers—who knew Merrill had received a letter.

The government has long argued, as it did in this case, that "secrecy is often essential to the successful conduct of counterterrorism and counterintelligence investigations" and that public disclosure of the receipt of a letter "may pose serious risks to the investigation itself and to other national security interests." FBI spokesman Mike Kortan said, "The FBI needs the ability to protect investigations, sources and methods."

A recent request by the Obama administration to amend the law governing the letters has prompted debate in Congress over which types of electronic records should require a judge's permission before the FBI can seek them, and which types should not, as is the case with national security letters. A letter may be issued by a FBI field office supervisor if they think the data will be relevant to a terrorism probe.

The FBI between 2003 and 2006 issued more than 192,500 letters—an average of almost 50,000 a year. The Justice Department inspector general in 2007 faulted the bureau for failing to adequately justify the issuance of such letters, though progress has been made in cleaning up the process.

On a cold February day in 2004, an FBI agent pulled an envelope out of his trench coat and handed it to Merrill, who ran an Internet startup called Calyx in New York. At the time, like most Americans, he had no idea what a national security letter was.

The letter requested that Merrill provide 16 categories of "electronic communication transactional records," including e-mail address, account number and billing information. Most of the other categories remain redacted by the FBI.

Two things, he said, "just leaped out at me." The first was the letter's prohibition against disclosure. The second was the absence of a judge's signature.

"It seemed to be acting like a search warrant, but it wasn't a search warrant signed by a judge," said Merrill. He said it seemed to him to violate the constitutional ban against unreasonable searches and seizures.

The letter said that the information was sought for an investigation against international terrorism or clandestine intelligence activities. Merrill said he thought it "outlandish" that any of his clients, many of whom were ad agencies and major companies as well as human-rights and other nonprofit groups, would be investigated for terrorism or espionage.

Although Merrill cannot further discuss the types of data sought, he said, "I wouldn't want the FBI to demand stuff like that about me without a warrant." The information an Internet company maintains on customers "can paint a really vivid picture of many private aspects of their life," he said, including whom they socialize with, what they read or write online and which Web sites they have visited.

Goodman said Merrill's letter "sought the name associated with a particular e-mail address" and other data that, in a criminal case, likely would require a court order.

Merrill confided in his lawyer, who suggested they turn to the ACLU. The civil liberties group decided to file a case, *Doe v. Ashcroft*, referring to then-Attorney General John Ashcroft.

The case yielded two significant rulings. The first was a September 2004 district court decision that the national security letter statute was unconstitutional, which prompted Congress to amend the law to allow a recipient to challenge the demand for records and the gag order. The second was a December 2008 appeals court decision that held that parts of the amended gag provisions violated the First Amendment and that, to avoid this, the FBI must prove to a court that disclosure would harm national security in cases where the recipient resists the gag order. Senior administration officials have said the FBI has adopted that ruling as policy.

The FBI withdrew its letter to Merrill in November 2006. Reported in: *Washington Post*, August 10. ☐

censorship dateline

libraries

Stockton, Missouri

The Stockton school board voted unanimously September 9 to uphold its April decision to ban a book from the school curriculum. The 7-0 vote came after a public forum about the novel, *The Absolutely True Diary of a Part-Time Indian*, by Sherman Alexie. The board also voted, 7-2, against a proposal to return the book to the high school library with restrictions.

Board member Rod Tucker said his main concern was the book's language, that it had too much profanity to be of value. He rejected the argument that most kids are familiar with such language and use it regularly.

Tucker said the district has other matters to deal with, and officials and many residents want to get the issue behind them. "Unfortunately, all our attention has been on the book," he said.

The Absolutely True Diary of a Part-Time Indian is about a young resident of an Indian reservation who decides to attend a white high school. There are descriptions of masturbation, sexual language and foul jokes, along with themes encompassing racism, alcoholism and violence. There are also descriptions of how the protagonist, Junior, tries to realize his dreams while surviving both life on the reservation and at a new school.

Alexie's book has won a number of awards, but that did not sway the board. "We can take the book and wrap it in those twenty awards everyone else said it won and it still is wrong," said board member Ken Spurgeon.

Supporters of the book said it was chosen to get high school boys, particularly, interested in reading. Spurgeon said that was a mistake because the book's reading level is low for high school readers.

"We're dumbing down our educational standards if we do that," he said.

Cheryl Marcum, a resident who had pushed the board to explain and reverse its decision, was disappointed by the vote. She said she's heard about the issue from young people who have left Stockton. "They said, 'I left Stockton because stuff like that happens there,'" she said.

Communication arts teacher Kim Jaspers, who supported keeping the book in the curriculum, said it had been seen as a good "community read." The result of the ban has been ironic, she said. "We thought it would be a great community read," she said. "Ironically, this has become a community read because of the book ban."

Before the vote, about 200 people attended the forum. The crowd was large enough that school officials shifted the forum from the high school commons to the gymnasium.

The forum was set up after board members, who initially banned the book in April after hearing from an upset elementary school parent, heard recommendations that it be placed in the high school library with restrictions.

Speakers at the forum—about 25 all told—reflected strong feelings on both sides, but proceedings remained civil. Applause followed several speakers. Speakers who supported the original ban said it reflected community values in Stockton.

Mike Holzknecht, who said he has two children in Stockton schools, supported the ban. He displayed several large copies of pages in the book, one of which described masturbation. "I am proud of you guys for saying no. Here's the limit," he said to the board, pointing to the pages. "We're not going to take it. It's an insult to my son and my daughter to say we have to have stuff like this in our schools to make them read," Holzknecht said. His comments drew applause.

Supporters of keeping the book said the issue is about the freedom to read it. They said the board acted hastily in banning it. Some teachers were upset because they were not consulted before the ban.

High school student Dakota Freeze spoke against the ban and supported keeping the book. She said her ambition is to leave Stockton and get into politics and the law. "This book in a nutshell is my hope," she said. "It's not about giving up. It's about not letting people tell you you're not worth it."

Along with local protests about the ban, the board's initial decision drew the attention of several national groups, including the National Council of Teachers of English, the National Coalition Against Censorship, the American Library Association and the American Booksellers Foundation for Free Expression (see *Newsletter*, September 2010, p. 198). Reported in: *Springfield News-Leader,* September 9.

Fond du Lac, Wisconsin

Parents of students in Fond du Lac schools were notified during the first week of school that they can monitor what their child is reading.

Although means to block library reading materials has been in place since the days of card catalogs, a new state-of-the art software program makes it that much easier, said Fond du Lac School District Curriculum and Instruction Coordinator John Whitsett.

During a work session held August 9, the Fond du Lac Board of Education got an overview of the new Alexandria Library Automation software program. Blocks can be put on authors, book titles and certain subjects, to an extent.

"It can be used as an alert system if parents want to tag authors and book titles they do not want their children to read, but it will not be a content filter," said School Board President Eric Everson.

Parental supervision of reading material became a topic of discussion this year when parent Ann Wentworth wanted several books removed from the library at Theisen Middle School.

Any time a parent contacted the school and wanted certain books withheld from their child, the school has taken action, Whitsett said. "If, for example, a parent didn't want any books on witchcraft, this was on alert with the librarian. They steer the child to other material," he said.

Content cannot be blocked if it isn't known whether or not the subject of witchcraft comes up in a certain book, he explained.

"It's not perfect, but I think it's a big step toward what we have been looking for. Parents have to be a part of the process and watch what their children are reading," he said.

Alexandria is a Web-based system that links the libraries in 14 school buildings and also manages the district's textbooks. A four-month installation process included the input of a quarter million pieces of data.

Parents can notify their schools' media specialists and fill out a form to block their children from specific reading materials. Only one to two parents in three or four schools in the district have done so in the past, Whitsett noted.

The alert will stay in place until the parent wants it removed. There are no self-checkouts in any of the school libraries.

"This message will be going out to our parents at the beginning of the school year. We appreciate their continued support of literacy at all levels, " said School Superintendent James Sebert.

Wentworth said if a parent has to know the title and author of a book, the issue is back to square one. She has argued for a book selection committee made up, in part, of citizens, and a book rating system. "It is not going to change anything," she said. Reported in: *Fond du Lac Reporter*, August 12.

schools

Brooksville, Florida

Nikki Sixx, the former bassist for the heavy metal band Motley Crue, wrote *The Heroin Diaries* as a cautionary tale about the dangers of drug use. In the memoir published in 2007, Sixx—who was born Frank Feranna—included diary entries from drug-addled days in 1987 accompanied by his reflections as a now-sober family man.

Hernando High School teacher Jason Galitsky thought the book, which is subtitled *A Year in the Life of a Shattered Rock Star*, would be an effective, though optional, supplement to his Advanced Placement psychology course.

Now Galitsky is himself a cautionary tale about the potential pitfalls of suggested reading lists. The 31-year-old teacher received a letter of reprimand from superintendent Bryan Blavatt for including the book on a suggested list without approval from school administrators. Galitsky also was reprimanded for writing what district officials determined to be an inappropriate message in a female student's yearbook.

"Regardless of the circumstances, it is your responsibility to protect students from conditions that may be harmful to their mental and/or physical well-being and/or safety and to protect them from embarrassment," Blavatt wrote in the letter.

In August, the father of the female student came to Hernando High administrators to complain about the explicit language, descriptions of drug use and photos in the *The Heroin Diaries*. The book was inappropriate for high school students, the father said. Galitsky, in signing the student's yearbook last year, had recommended she read the book over the summer for the class this year.

Hernando High principal Ken Pritz agreed with the parent and required Galitsky to pull the title from the suggested reading list posted on a personal Web page designed for the class. School officials also told Galitsky that the Web page, which linked from a district online portal, violated policy.

During an August 27 predetermination hearing, Galitsky defended the book as appropriate for high school students in a college-level course. He also said he was unaware that suggested material for Advanced Placement courses required approval from the School Board, according to summary notes from the hearing.

Galitsky told officials he read the *The Heroin Diaries* after some students mentioned it in one of his classes last year, but he decided not to make the book required reading because of the explicit language. He noted that he found his copy of the book in the social sciences section of a chain bookstore and that the book also can be found in the Hernando County Public Library.

But Galitsky also acknowledged that, "In retrospect, maybe it wasn't the best suggestion."

"I believed my students would be more interested in a first-hand account of an individual suffering from addictions to mind-altering substances than they would a fictitious account of the same material," Galitsky wrote in a reply to the reprimand letter. "The intent of the author was not to offend and disgust his readers, but to share the story of his personal battle with his demons."

School officials asked why Galitsky referred to the student in the yearbook salutation as "Tubby" and "Pork Chop." Galitsky said the student, a vegetarian whom he described as "far from tubby," gave herself that nickname in jest and even put the names on tests and quizzes.

Galitsky must complete an ethics training course by December 1. He also cannot serve as a teacher mentor for this school year. The supplemental position pays $175 per mentored student, per semester.

Galitsky was hired in 2004 as an in-school suspension teacher at Springstead High and moved to Hernando High the following year. His evaluations through the 2007-08 school year—the most recent year available under public records law—are positive. His disciplinary record is unblemished.

"This was a teacher that was trying to make sure the kids get the best of information," Hernando Classroom Teacher Association President Joe Vitalo said. "He just wants to focus on teaching in the classroom and move on."

Vitalo said the district handled the matter appropriately but points to the need for more specific language in the staff handbook on suggested reading. Galitsky, in his response letter, said he wanted to help in that effort.

"I will be working proactively with my administration at Hernando High School as a teacher advocate to help define this otherwise ambiguous policy to ensure that none of my colleagues are drawn into a situation similar to mine," he wrote. Reported in: *St. Petersburg Times,* September 14.

Martin County, Florida

Where is the line between entertaining and explicit? Between poignant and profane? Jo Anne Connolly believes it was crossed in September when her 11th-grade son came home with a copy of *The Catcher in the Rye*.

The South Fork High School student was assigned to read J.D. Salinger's tale of the sarcastic and alienated protagonist Holden Caulfield as part of his English work—but the language in the story offended both mother and son. "The 'F' word is in there, and they take the Lord's name in vain," explained Connolly, a Stuart resident and the mother of five adopted children.

So she requested another book for her son to read, and the school complied. Now, she's crusading to get *The Catcher in the Rye* banned from all classes in the Martin County School District.

"If the district doesn't do anything about it, you better believe I'll write Tallahassee," Connolly said.

In lieu of reading *The Catcher in the Rye*, Connolly's son read Mark Twain's *The Adventures of Huckleberry Finn*. "Now why couldn't all the students read *Huckleberry Finn*?" Connolly asked. "What's wrong with that book?"

Actually, Huck has plenty of critics, too. They cite racist language, including the use of the "N" word more than 200 times. In fact, *Huckleberry Finn* is No. 14 on ALA's list of banned books for the last decade—ahead of *The Catcher in the Rye*, which was No. 19.

"Children are exposed to too much too young, and I think that it leads to too much premarital sex, too much teenage sex, maybe even into drugs," Connolly said. For the same reason, she blocks MTV and other cable channels from the television at her home. "I've always been taught, and always have believed, what goes in is what comes out. If your children read garbage and trash, that's how they're going to behave," Connolly said. Reported in: tcpalm.com, September 25.

Townsend, Massachusetts

School hadn't even begun, but new North Middlesex Regional High School Principal Christine Battye already faced pointed questions at her first School Committee meeting August 23. Anne Buchholz, an at-large member of the committee, wanted to know why a book was removed from the summer reading list.

"There are all kinds of books that have been banned in the past," Buchholz said. "I want to make sure we don't move in the opposite direction."

There are two books with similar titles, *Tweaked* and *Tweak,* both dealing with drug use, Battye said. One is intended for a more mature reader. "Mrs. Battye decided the most appropriate response for our community was to remove it from the list," Assistant Superintendent Deborah Brady said.

Up until now there has not been a problem with books on the list, she said. If a parent found a book objectionable, other books were suggested. After a parent called to object to the book, two others were added as options at some point over the summer. Students who had already read the book could still use it as part of the summer reading assignment, Battye said.

Board member Joann Clermont of Pepperell defended the book's removal, saying that in *Tweaked*, there are "F" words and instructions on how to make certain types of illegal drugs.

There are several rubrics or authoritative rules that can be used to assess the appropriateness of books for different grade levels, Battye told the board. She plans to implement a reading-selection process, in which two teachers read and evaluate books according to these guidelines.

The book was placed on the reading list before she arrived at the school. Battye discussed the book after being introduced to the School Committee for the first time. Reported in: *Pepperell Free Press*, August 27.

Republic, Missouri

Two weeks after the Stockton, Missouri, school board upheld a ban on Sherman Alexie's novel *The Absolutely True Diary of a Part-Time Indian* (see page 241), nearby Republic was looking at three books: *Speak,* by Laurie Halse Anderson, *Twenty Boy Summer,* by Sarah Ockler, and *Slaughterhouse-Five*, by Kurt Vonnegut.

Wesley Scroggins, a parent and assistant professor of management at Missouri State University, says the books could be classified as "soft-pornography," and wants them banned.

That's among a number of complaints he has about the school's curriculum. Other curriculum concerns Scroggins has:

- American government classes teaching that America's form of government is a democracy
- Separation of church and state, and freedom of expression
- Viewing of R-rated movies in English class, such as "Saving Private Ryan" and "The Breakfast Club"
- Science and evolution
- Sex Education classes that include information about condom usage, and other "immoral" topics

While the district has addressed many of Scroggins' concerns, he says it hasn't contacted him about the books.

"As long as there's been books, there's been people that question the value of some books over others," says Superintendent Vern Minor.

According Scroggins, the three books are without value, because they glorify drinking, cursing, and premarital sex. "These materials are inappropriate for children in the school district," said Scroggins.

In a complaint to the school board, at its June 21st meeting, Scroggins said Ockler's book, *Twenty Boy Summer* "glorifies drunken teenage parties and teen pre-marital sex," highlighting in particular "the games of strip beer pong [that] are described in this book, where the losers have to chug the beer."

"He took two scenes out of context. He took the party scene, and he took the safe-sex scene, which is not gratuitous. My book is actually about two girls who are dealing with the aftermath of a sudden death of a loved one," said Ockler.

"I don't know how you take that out of context. It's kids that are at wild parties and are getting drunk and are having sex," Scroggins responded.

Scroggins says Anderson's book, *Speak*, "also contains much offensive material, including two rape scenes, drunken teenage parties, and teenage pre-marital sex."

"I was stunned. I was horrified, and I was also very grateful that my mother didn't live to see the day when someone called my work pornography," said Anderson.

Ockler said this was the first time she's heard of a school considering banning her book. "I was shocked, because my book is not the kind of high-profile issue book that generally gets challenged," she noted.

"We haven't made any final decisions on anything," said Minor.

That's what led Scroggins to write an op-ed in the *Springfield News-Leader*. He charged that the district isn't addressing his complaints. "I thought it was time parents be informed as to what their kids are being exposed to," says Scroggins.

"He raised his issues and we met," Minor said. "We very much have paid attention to him, we just don't agree on some issues." Minor, who declined to comment on specific issues, said he recently received at least twenty e-mails of support.

The district said it didn't want to make any decisions over the summer, while teachers were out. Minor will meet with English teachers and hopes to have a decision by the end of the semester.

Scroggins is now drawing national attention, with blogs, twitter posts, and online forums. Both Ockler and Anderson have spoken out on their blogs.

"All of us have been online constantly just to find out what's going on, just to fight censorship," says Ockler.

"We may, very well, not teach one of those books anymore, and we may keep one of those books, but we'll sit down and we'll make a decision on what we think is best for our kids," said Minor.

Anderson said, whatever is decided, it should be decided by the parents and the community. "Somebody like Dr. Scroggins does not have the right or the responsibility to make decisions for the children of other people. In a school setting, those decisions are made by education professionals, overseen by your school board. It's very disturbing to me that one person thinks they can come in and impose their will on what should be community decisions."

Anderson said she plans to donate a number of all three books to the public library so community members can check them for free.

If the district decides the books are inappropriate for class, they'll also be removed from the school's library.

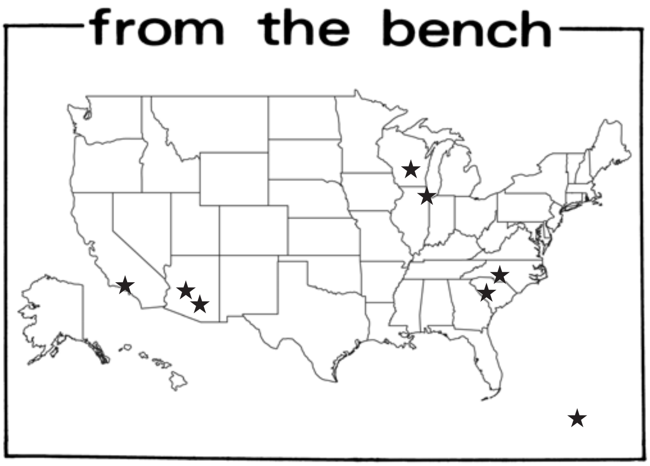
Scroggins approached the district earlier this year to increase the awareness of parents and taxpayers. His two youngest children are homeschooled. The oldest went to public schools. "We've got to have educated kids and we've got to be a moral people," he said. "I've been concerned for some time what students in the schools are being taught."

Scroggins met with Minor and curriculum coordinator Amy Case in late April. Minor then issued a memo to the school board, outlining Scroggins' concerns and district reaction. It states that Scroggins took issue with a pamphlet used in sex education describing ways to avoid contracting HIV—such as using a condom—and students' exposure to discussion about "sexual perversions," such as oral sex.

The district uses an abstinence-based curriculum and encourages parental involvement, Minor said. He wrote that parents can opt out of curriculum but "we have an obligation to deal with issues in a factual way with students so they will make the proper choices and avoid behaviors that would prove detrimental to their health and future."

In late June, Scroggins addressed the board. In a written complaint, he asked for curriculum changes and the removal of specific books. Reported in: kspr.com, September 20; *Springfield News-Leader*, September 21.

(continued on page 258)



student press

Chicago, Illinois

A federal judge in September ruled that state laws can restore to the college press much of the First Amendment protection that a 2005 federal appeals court ruling appeared to limit. The new ruling appears to validate the strategy of advocates for the student press, who turned to state legislatures to minimize the damage they feared from the 2005 decision.

The ruling came in a suit by the former faculty adviser and the former student editor of *Tempo*, the student newspaper at Chicago State University. They charged that the university fired the adviser and interfered with the legitimate work of the editor because of the administration's anger over critical articles published in *Tempo*. The university has maintained that it did nothing wrong and that the adviser was dismissed for other reasons. But the record in the case made clear that the university's administrators were angry about what the newspaper was publishing and wanted to review articles prior to publication—and that the student journalists, with their adviser's backing, resisted.

The ruling by U.S. District Court Judge Rebecca R. Pallmeyer did not resolve the case—she rejected requests from both sides for summary judgment in their favor and instead found that there were points of fact that need to be resolved in a trial. But her ruling stated clearly that a law enacted in Illinois in the wake of the 2005 appeals court ruling clearly was relevant to the case and gave additional First Amendment protections to student journalists. And that was the finding that advocates for the student press wanted.

Frank D. LoMonte, executive director of the Student Press Law Center, called the ruling "a really thorough and careful analysis" and said that it showed that the Illinois law to protect student journalists "has real teeth."

The appeals court ruling that sparked the concern about First Amendment rights for student journalists was called *Hosty* v. *Carter*, and was decided by the U.S. Court of Appeals for the Seventh Circuit. In a case involving the student newspaper at Governors State University, the appeals court rejected a lower court ruling and many other rulings that have suggested that college journalists have far more First Amendment protection than do high school journalists. Rather, the appeals court found, public colleges and universities have many of the rights of public high schools to regulate the student press. The U.S. Supreme Court declined to hear an appeal in the case, and that led advocates for student journalism to seek protection from state legislature.

In Illinois, the College Campus Press Act became law in 2008, stating that "campus media produced primarily by students at a state-sponsored institution of higher learning is a public forum for expression by the student journalists and editors at the particular institution." Specifically, that designation is supposed to bar demands by public colleges—even if they provide financial support to the publications—for pre-publication review.

While Judge Pallmeyer noted the *Hosty* decision, she said that the Illinois law's protections were the controlling factor to consider. "In light of the *Hosty* decision, the Illinois legislature's intent to designate student publications as public forums that are free from censorship is particularly clear. As the majority in *Hosty* itself observed, 'public officials may not censor speech in a designated public forum,'" she wrote. "In short, by adopting the Illinois College Campus Press Act, the state voluntarily ceded any ability it may have had to control the content of a student publication such as *Tempo.* As a result, the First Amendment prohibits university officials from taking any adverse action against *Tempo* or its staff, including engaging in conduct designed to chill the speech contained in future editions, on the basis of the views expressed in the publication unless such action served a compelling government interest." Reported in: insidehighered.com, September 13.

colleges and universities

Los Angeles, California

A federal appeals court on September 17 threw out a case brought by a Los Angeles City College student whose Speech 101 professor shouted him down and called him a "fascist bastard" while he was giving a presentation about his Christian faith.

The student, Jonathan Lopez, sued the Los Angeles Community College District last year. He said that the professor, John Matteson, retaliated and discriminated against him because of his religious beliefs. The lawsuit asked the court to strike down a district sexual-harassment code that forbade students and employees from creating a "hostile or offensive" educational environment. A federal district judge later issued an injunction preventing the college district from enforcing that code, saying it was overly broad and violated free-speech rights.

But a panel of the U.S. Circuit Court of Appeals for the Ninth Circuit unanimously found that Lopez failed to show he was harmed by the sexual-harassment policy and that he lacked standing to bring the case. Despite "the disturbing facts of the case," Lopez did not show how his speech, or his intended speech in the future, would have violated the policy he challenged, the judges ruled.

"No LACC official or student invoked or even mentioned the policy, nor did anyone suggest that Lopez's . . . speech constituted sexual harassment," the ruling says.

David J. Hacker, a lawyer for the Alliance Defense Fund, which helped bring the lawsuit, said the decision could have chilling effects on student speech nationwide. Policies like the one Lopez challenged, which apply to students any time they are on the institution's campus, "lead to students' believing they can speak less," he said.

Hacker said the court's decision conflicted with another ruling in August by the U.S. Court of Appeals for the Third Circuit, which held that portions of the student-conduct code at the University of the Virgin Islands were unconstitutional (see page 248). That court used a more relaxed standard to grant standing to the student who challenged the parts of the college policy on similar First Amendment grounds.

Given the conflict, the Alliance Defense Fund will probably appeal the Lopez case, either to the full Ninth Circuit or to the Supreme Court, Hacker said. Reported in: *Chronicle of Higher Education* online, September 19.

Augusta, Georgia

For the second month in a row, a federal judge has backed the right of a public university to enforce standards of its counseling graduate programs—even when religious students object to standards requiring them to treat gay people on an equal basis.

The latest ruling came August 20 in Georgia, where Judge J. Randal Hall refused to grant an injunction that would block Augusta State University from expelling Jennifer Keeton from a master's program over her refusal to comply with a remedial program designed to deal with concerns faculty members and fellow students had about the way she would counsel gay people. Keeton has maintained that being forced to comply with the remedial program would effectively force her to change her Christian beliefs—something that she and her legal backers maintain a public university has no right to do.

In his ruling, Judge Hall tried hard to keep the case from becoming a culture wars flash point. "[T]his is not a case pitting Christianity against homosexuality," he wrote. What the case was about, he wrote, was the right of a public university to enforce reasonable academic standards. He wrote that "matters of educational policy should be left to educators and it is not the proper role of federal judges to second guess an educator's professional judgment."

The ruling noted that the standards for Keeton winning her injunction were quite high, and that the full record of the case has not been reviewed. But the judge framed the case as one of academic rights—and he did so in a similar way to the ruling a month earlier by another federal judge. In a full ruling in that case, the judge upheld the right of a counseling program at Eastern Michigan University to kick out a master's student who declined to counsel gay clients in an affirming way—as required by the university program and counseling associations.

Advocates for religious students at secular universities had hoped to use the two cases to define broadly the right of students to ignore requirements of professional associations and related degree programs that relate to equitable treatment for gay people. And after the Eastern Michigan ruling, on which an appeal is expected, many supporters of the religious students suggested that the Augusta State case may have been their stronger one.

A gag order in the case prevented officials on either side from commenting, but the judge's ruling almost certainly will be cause for concern among those advocating for Keeton and those with similar religious beliefs.

As detailed in court records, Keeton enrolled in the master's program in counseling at Augusta State in 2009, with the goal of becoming a school counselor. The program's curriculum—as is common—is based in part on teaching and abiding by the ethics code of the American Counseling Association, which requires counselors to avoid bias on any number of grounds (including sexual orientation) and to counsel individuals in ways that respect their lives and beliefs.

In classroom discussions and papers, Keeton (according to the judge's ruling) stated that she condemned homosexuality, said that sexual orientation was a matter of personal choice, and told fellow students that—if given the opportunity to counsel gay people—she would recommend "conversion therapy" in which gay people are counseled to become straight. There is a scholarly consensus among psychology experts that such therapy doesn't work and can harm those who undergo it.

Keeton's program directors placed her in "remediation status," citing their concerns that she would be unable to effectively counsel gay clients. Students who are placed in such status must complete certain requirements or they are expelled from the program. Among the tasks she was given:

- Attend three workshops on "improving cross-cultural" communication, with the idea of learning to work effectively with gay populations.

- Read at least ten articles in peer-reviewed counseling or psychology journals on counseling gay populations.
- "Increase exposure to and interaction with gay populations" through activities such as attending the local gay pride parade, and report on those activities.
- Study the Association for Lesbian, Gay, Bisexual, and Transgender Issues in Counseling's Competencies for Counseling with Transgender Clients.

Keeton originally agreed to try to comply with the requirements, but then said she couldn't and sued. She charged the university with engaging in "viewpoint discrimination" by violating her freedom of speech, her right to freely practice her religion, and her right to due process, among other allegations. She also sought the injunction that was denied—asking for an immediate order that would block the university from enforcing its rules against her.

Judge Hall cited several pieces of evidence submitted by the university as showing that Keeton was sanctioned not for her religious views but for the university's belief that she was going to act in ways inconsistent with the professional standards under which it trains students. Faculty members testified that they did not care about Keeton's personal religious beliefs or require that she change them to continue in the program—only that she agree to treat people within the nondiscriminatory standards of the profession.

The university also submitted affidavits from fellow students in which they said that Keeton told them she planned as a counselor to tell any gay clients that their conduct was "morally wrong" and to try to get them to "change" themselves, and that she would seek to work in schools without any gay people or that she would refer gay people to other counselors. Counseling standards specifically state that it's not permitted to refer clients because of sexual orientation or other factors, and that counselors are required to be able to work with all groups.

In his decision, Judge Hall wrote that these facts made the issue not one of religious belief, but of specific curriculum-based decisions appropriately made by a faculty. "[T]he record suggests, and the testimony at the hearing bolsters, that the plan was imposed because plaintiff exhibited an inability to counsel in a professionally ethical manner—that is, an inability to resist imposing her moral viewpoint on counselees—in violation of the ACA Code of Ethics, which is part of the ASU counseling program's curriculum."

From a legal perspective, he added, the issue isn't whether the curriculum requirements reflect the best possible approach—only that they represent a legitimate one that is not "a pretext" but a genuine academic point of view.

"Whether I would have imposed the remediation plan, or what I would have included in the plan itself, is not the question, for the Supreme Court instructs that educators, not federal judges, are the ones that choose among pedagogical approaches," he wrote. "I will not, especially at this early stage of the litigation, serve as an ersatz dean. In fact, judicial restraint mandates that I not." Reported in: insidehighered.com, August 23.

Charlotte, North Carolina

In a unanimous opinion August 17 that may affect other religiously affiliated colleges in North Carolina, a three-judge panel of the state Court of Appeals held that campus police officers at Davidson College cannot be given arrest powers to enforce state law.

The ruling said the state's delegation of such powers to Davidson's officers creates "an excessive government entanglement with religion," in violation of the Establishment Clause of the First Amendment to the U.S. Constitution.

Davidson is affiliated with the Presbyterian Church (U.S.A.), and the court considered the strength of its ties to the denomination as a factor in its opinion. The ruling acknowledged, however, that there are complicating factors in the case and that the State Supreme Court may ultimately have to clarify the state statute involved.

The case stemmed from a traffic arrest by a Davidson College officer on a street adjacent to the campus in 2006. The driver, Julie Anne Yencer, challenged the officer's exercise of police power, alleging that it violated the excessive-entanglement prohibitions of the Establishment Clause.

A trial court concluded that "although Davidson College is religiously affiliated, it is not a religious institution within the meaning of the First Amendment." The appellate panel, however, disagreed, citing as precedents rulings by the North Carolina Supreme Court and the U.S. Supreme Court.

The panel's opinion noted that Davidson's bylaws place religious requirements on the college's governing board and its president. Among other things, more than half of the 44 trustees must be active members of the denomination, 80 percent of the board members must be active members of a Christian church, and the college's president must be "a loyal and active church member."

The panel said it was bound by rulings in earlier cases that found it unconstitutional to delegate police powers to officers at two other Christian institutions in North Carolina, Campbell and Pfeiffer Universities, and therefore was "compelled to conclude that Davidson College is a religious institution for the purposes of the Establishment Clause."

At the same time, however, the ruling declared that "there is evidence in the record to show that Davidson College is not a religious institution for Establishment Clause purposes." Davidson has "well-established principles of academic freedom and religious tolerance," it said, and its mission is not religious indoctrination.

The opinion recommended that if the case is appealed to the State Supreme Court, a review should be granted.

It was unclear how the ruling would affect the nine-employee police department at Davidson. A spokeswoman, Stacey Schmeidel, said the college was "analyzing the court's opinion to determine its full implications." It was also unclear how many other private colleges with religious affiliations might fit the category identified in the ruling. Allen Brotherton, a lawyer representing Yencer, said, "There are presumably a lot of similarly situated institutions around the state that have been delegated the police power in an unconstitutional way, and this presumably applies to all of them." Reported in: insidehighered.com, August 17.

St. Thomas, U.S. Virgin Islands

The U.S. Court of Appeals for the Third Circuit has ruled that portions of the student-conduct code at the University of the Virgin Islands are unconstitutional. The appeals court reversed two of a lower court's decisions in the case, ruling that provisions of the code that prohibited "offensive" or "unauthorized" signs and conduct causing "emotional distress" were overly broad restrictions of speech.

In particular, the appeals court ruled against a ban on unauthorized signs because the university had no clear policy for authorizing signs. The court also upheld the lower court's ruling that a clause that forbade students to cause "mental harm," or to demean or disgrace anybody, was unconstitutional. The appeals court sided with the university on several other claims, however. Reported in: insidehighered.com, August 18.

Madison, Wisconsin

The University of Wisconsin at Madison improperly denied funding for some activities of a Roman Catholic student group, imposing unconstitutional limits on activities involving worship, a federal appeals court ruled August 30.

The 2-1 ruling by the U.S. Court of Appeals for the Seventh Circuit was a significant win for Badger Catholic, which has been involved in years of debate with the university over which of its activities are eligible to receive student fees. The ruling was in part based on a series of Supreme Court decisions that have upheld the use of public funds for the activities of religious groups.

A key part of the ruling involved the university's decision to fund broad categories of activities in the first place. The majority decision indicated that the university could have blocked student fees from going to the activities in question if it had blocked entire categories of support—no matter whether conducted by secular or religious groups. Once a university allows any category of student activity to receive support, however, the court ruled that it can't bar support for that activity just because it may involve worship.

"A university can define the kind of extracurricular activity that it chooses to promote, reimbursing, say, a student-run series of silent movies and a debate team, while leaving counseling to the student-health service that the university operates itself," said the decision, by Judge Frank H. Easterbrook. "But the University of Wisconsin has chosen to pay for student-led counseling, and its decision to exclude counseling that features prayer is forbidden."

The University of Wisconsin at Madison's rules about student fees and student organizations have been controversial for years and in 2000 led to *Board of Regents of University of Wisconsin v. Southworth*, a U.S. Supreme Court decision that upheld the right of the university to have mandatory student fees to support student organizations, but only if the distribution of funds (largely performed by students at Madison and at many campuses) is "viewpoint neutral." Ever since then, the university has faced challenges over whether its rules for distributing student fees meet that test.

The current Madison case has been described as being about a university's refusal to support a religious group's student activities. A news release from the Alliance Defense Fund, which backs the rights of religious students nationally and in this case, said that the court had found that the university "cannot deny funding to Catholic student group."

In many ways, that question was already resolved (in favor of religious groups)—and Madison already provides considerable funding to Badger Catholic. (An earlier series of disputes concerned questions over whether the group was sufficiently controlled by students to be eligible for funding, but the university has agreed that the current structure is consistent with its rules.) And as the dissent in the case noted, Badger Catholic received funds for the "vast majority" of the activities for which it sought support, many of them based on the group's religious beliefs.

Madison rejected support for six activities that violated its rules against student fee support for worship, proselytizing or prayer—arguing that these activities were removed from the general kinds of intellectual and social exchange that the student-fee-funded activities are designed to promote. For instance, one of the rejected activities was a four-day summer leadership retreat at which there were three masses and four communal prayer sessions (along with other activities).

The majority decision by the appeals court said that in ruling out activities that featured some prayer, the university was going against the pledges that appeared to convince the Supreme Court in 2000 that student fee decisions would not be made with regard to the views of various groups. "Although the university promised the Supreme Court in *Southworth* to distribute funds without regard to the content and viewpoint of the students' speech, it has concluded that this promise does not apply to speech that constitutes the practice of religion."

The decision cited a series of rulings by the Supreme Court that said state entities could support activities by religious groups, and found that since this was the case, the university couldn't separate out worship activities from other activities—once Madison committed to supporting general categories such as leadership or counseling. The decision also rejected an argument by the university that it could legitimately decide not to support certain categories of religious activity. The university cited *Locke v. Davey,* a 2004 Supreme Court decision that upheld the right of Washington State to maintain a state scholarship program that did not permit grants for the study of theology.

That decision wasn't relevant, the majority ruled. "[I]n Locke ... the state's program did not evince hostility to religion. The scholarships could be used at pervasively sectarian colleges, where prayer and devotion were part of the instructional program; only training to become a minister was off limits. The University of Wisconsin, by contrast, does not support programs that include prayer or religious instruction," the decision said.

"Second, and more importantly, the state's decision in *Locke* concerned how to use funds over which it had retained plenary control. Choosing which programs to support and which not, whether by having a department of philosophy but not a seminary, or by granting scholarships to study theology but not prepare for the ministry, is a form of government speech. . . . But the University of Wisconsin is not propagating its own message; it has created a public forum where the students, not the university, decide what is to be said. And having created a public forum, the university must honor the private choice."

In her dissent, Judge Ann Claire Williams said that the university had in fact come up with a legitimate division between activities it would and would not support with student fees. She questioned the idea that worship and related activities should be viewed simply as another way to express a point of view. She said that worship is something else altogether from the debate and discussion from a religious perspective that the university is required to support, and that suggesting that worship is no different from discussion "degrades religion and the practice of religion."

She also said that the university in fact was being consistent in how it treats Badger Catholic and other groups. "The university does not deny money to Badger Catholic for expressing the Catholic version of worship; it denies money to any group to practice its version of worship."

Judge Williams added that the majority opinion would needlessly limit a public university's authority. "Although a university cannot systematically deny or discriminate against any group for its views, it can draw lines and make hard decisions about funding," she said. "Given the limits and goals of the forum, the university's decision to draw that line at a category such as purely religious activity is not unconstitutional. Our task is merely to decide whether that decision was viewpoint neutral, and it was."

The Alliance Defense Fund, which sued Madison, praised the appeals court's ruling. "The constitutional rights of Christian student organizations should be recognized by university officials just as they recognize those rights for other student groups," said Jordan Lorence, senior counsel. "The university funded the advocacy and expression of other student organizations but singled out Badger Catholic for exclusion based purely upon its viewpoint. The Seventh Circuit rightly regarded this as unconstitutional."

But Barry W. Lynn, executive director of Americans United for Separation of Church and State, said the decision was dangerous. "Activities like evangelism, prayer and worship should always be supported with funds given voluntarily," he said. "For a long time, this was a central principle of church-state law. In recent years, courts have drifted from this concept, much to the detriment of religious freedom. Whether university-based or not, religious groups should pay their own way. Any other system smacks of a church tax."

Ada Meloy, general counsel for the American Council on Education, said that "the whole area of how public institutions deal with religious groups is a complicated set of dense legal rulings." Given that the ruling on Wisconsin has a "well-reasoned dissent," she said she doubted many public institutions outside the Seventh Circuit would change their practices right now. "It will be a case worth watching if it goes further," she said. Reported in: insidehighered.com, September 2.

confidentiality

Tempe and Tucson, Arizona

A federal judge ruled in August that education researchers at Arizona State University and the University of Arizona can't be forced to release records that identify individual teachers they interviewed for their studies, which have become part of a court battle. But the judge ruled that the names of schools and districts studied must be released.

The scholars involved promised confidentiality both to the teachers and to the schools and districts, so while faculty members cheered the part of the ruling protecting the names of teachers, they said the other part of the ruling could hinder research involving schools.

The judge's ruling concerned subpoenas that had been obtained by Tom Horne, the state superintendent of education, for documents about research conducted by the Civil Rights Project at the University of California at Los Angeles. The UCLA center has been coordinating a major research effort on Arizona's controversial policies about education for schoolchildren learning English, and the research team includes professors at Arizona and Arizona State, such that many records exist at those universities and are subject to the subpoena.

Those researchers—whose work has questioned the effectiveness and fairness of Arizona's policies on teaching English—are expected to be expert witnesses in a trial about the state's approach. Their findings are particularly critical of rules forcing those learning English to be separated from other students so they can focus solely on English four hours a day. The research has found that this approach—which state officials say promotes learning English—has failed to close education gaps among student groups and has effectively amounted to segregation, with a restoration of "Mexican rooms" that once served to separate Latino and Anglo students.

The University of Arizona has turned over some of the documents requested (although not those with identifiable names) and Arizona State has not—and many researchers have criticized the University of Arizona's partial compliance with the subpoena—even before the August ruling. Both universities, however, backed the legal effort to quash or limit the subpoenas.

Horne, the superintendent defending the state's policies, has said he needs all of the information about the research in order to make a strong case in court on behalf of the approaches that the research has questioned.

Judge Raner C. Collins ruled that Horne did have a right not only to the expert witnesses' written reports but to "data or information considered by the witnesses in forming their opinions." Judge Collins said that this would not extend to the names of individuals, saying that "research participants were promised their anonymity would be preserved and the court intends to honor that promise."

The ruling did not extend that protection to schools or districts, unless the researchers could show that they are so small that disclosing the school or district name would identify individuals.

Gary Orfield, co-director of the Civil Rights Project, said he was pleased that "the court has clearly recognized important protections for individual respondents" but said that the ruling on naming schools "created serious problems for researchers."

Orfield noted that it was necessary to offer schools and districts anonymity to get them to permit research, given the "very intense politics" in Arizona over the issues at the center of the research. "This decision could limit access to schools and districts elsewhere since it gravely undermines some of the guarantees of confidentiality if the researcher were to be called as an expert witness based on what he or she had learned in his research," Orfield said. "Since it is already very difficult to gain access to schools on sensitive issues, especially to obtain information on issues of racial and ethnic equity, this makes the job of researchers even harder and risks reducing the already limited information we have on many critical education and civil rights issues."

Felice J. Levine, executive director of the American Educational Research Association, said there are important issues involving not only individual research subjects, but schools involved. She said that "caution" is needed in forcing the release of school names, since such information "can adversely affect the individuals who granted access or have a chilling effect on institutions that provided access under the expectation that their identities would be masked."

The Arizona case is not the only dispute in the news about state officials seeking access to private records of university researchers. The University of Virginia—backed by the American Association of University Professors and other academic and civil liberties groups—is trying to block a demand from Virginia's attorney general for information about a former professor who conducted climate change research. Reported in: insidehighered.com, August 23. ☐

is it legal?

libraries

Columbus, Georgia

A 16-year-old who officials said was bothering patrons by evangelizing outside a library after he was warned to stop has been banned from the Chattahoochee Valley Regional Library System for six months.

Kirsten Edwards, acting manager of the North Columbus Public Library, said in a letter that Caleb Hanson repeatedly asked patrons about their religious faith and offered biblical advice.

Hanson said he was warned to stop speaking to patrons inside the library. Then library employees "took me into an office and told me not to do it," he said. He said he then began talking to people outside the library, and patrons continued to complain.

Claudya Muller, director of the library system, said the ban had nothing to do with what the teen was saying. "As people came in, he would approach them. He prevented people from simply using the library."

The letter from Edwards stated that Hanson's library card had been blocked, and that if he returns before February 28, he will be criminally trespassing.

Caleb's parents, Tim and Elizabeth Hanson, are ministers outside the U.S. He is living with Elizabeth's parents, Raymond and Janet Jacobs, who are retired missionaries. Elizabeth Hanson said she has contacted the American Center for Law and Justice, a Christian advocacy center in Washington, D.C., but has not received a response.

The teen is home-schooled and attends First Assembly of God in Phenix City, Alabama. He said he was not offended by the ban. "We're still praying about what to do," he said.

Michael Broyde, professor of law and academic director of the Law and Religion Program at Emory University in Atlanta, said the library's decision seemed appropriate. "My intuition is that this is reasonable. It falls under the time, place and manner restriction," he said.

Time, place and manner considerations could act as restrictions on what would ordinarily be First Amendment-protected expression. Such restrictions do not target speech based on content, and in order to stand up in court, they must be applied in a content-neutral manner. For example, people have the right to march in protest, but not with noisy bullhorns at 4 a.m. in a residential neighborhood.

Broyde told the newspaper: "In a place like a library, where silence is generally accepted, they can restrict unneeded pestering."

In addition to the North Columbus branch, the system includes the Columbus, South Columbus, Mildred L. Terry, Cusseta-Chattahoochee, Lumpkin, Marion County and the Parks Memorial Public Library in Richland. The ban was effective August 28. Reported in: firstamendmentcenter.org, September 23.

Durham, New Hampshire

Officials are reviewing the Internet policies of the Dimond Library at the University of New Hampshire in response to a recent incident where a man was arrested for viewing child pornography on a library computer. The library currently has no filters on any of its public computers that would prevent the public from viewing pornography. The computers are open to the public and don't require a person to sign in to use them.

According to University Spokesperson Erika Mantz, the library subscribes to the American Library Association's code of ethics, "which calls for a commitment to uphold the principles of intellectual freedom and to resist all efforts to censor library resources."

During the recent arrest, registered sex offender Phillip Burbank, 67, was caught looking at images of naked children on a library computer. Burbank was charged with one count of possession of child porn and federal officials are currently reviewing his case.

"As a result of the recent incident that led to a local man facing child pornography charges, the library is reviewing its current policies as well as the policies of the university and consulting with legal counsel," Mantz said in a statement. "We are proud of our history of providing the university community and the public with broad access to a world-class library in a safe and secure environment consistent with our service to the UNH mission of higher education, scholarship and public service. We will ensure that our library policies and practices fully embody and reflect our dedication to continuing these essential traditions throughout the twenty-first century."

Like UNH, some other area libraries don't use filters to restrict porn on the public computers. But they do have policies in place that prevent users from watching porn on the public computers.

Computer users at the Dover Public Library have to read an electronic statement and agree not to look at inappropriate materials before they can use the Internet. "We don't monitor the Internet," said Cathy Beaudoin, the library's director. "But we do have all the computer terminals out in the open where everyone can see them. The public acts as our police."

If a patron reports that someone is looking at something they're not supposed to, the accused would get in trouble because they're violating the contract they agreed to when they signed onto the Internet, according to Beaudoin.

A person caught looking at porn could be banned from using library computers for a particular amount of time, or even life, Beaudoin said. Beaudoin said the policy gets violated sometimes but not often. "It's generally not an issue because we have the policy and most people stick to it," she said. Beaudoin said the biggest problem the library experiences with the Internet is that some people stay on it for too long.

The Rochester Public Library uses the same policy and also places its computers out in the open for everyone to see. "It's very rare for us to have any problems," said Library Director John Fuches. "I think our policy has worked well and the placement of computers has helped as well." Reported in: *Foster's Daily Democrat*, August 17.

Cookeville, Tennessee

A Christian author has filed a lawsuit against a public library after being denied access to a meeting room for a discussion of her book.

"Christians shouldn't be excluded from reserving and using public meeting facilities because of their beliefs," said Nate Kellum, senior counsel with the Alliance Defense Fund. "It's incredibly ironic that discussing a book would be prohibited in a library. The government cannot discriminate against Christians just because of their religious viewpoint."

The complaint was filed August 12 against Putnam County Library in Cookeville. Ilene Vick, who professes to be an evangelical Christian, wanted to have small group discussions around her book, *Personality Based Evangelism*. According to the complaint, Vick "believes all Christians should convey their faith, and the basis for their faith, to others."

"It is Vick's understanding that the Bible commands Christians everywhere to 'evangelize,' that is, to teach others what Jesus taught, and what the Bible teaches, about faith in Jesus Christ," ADF attorneys stated in the complaint.

In early 2009 Vick was told by the director of the library at that time, Diane Duncan, that she could not use the meeting room. "Our public room cannot be used for religious purposes. I'm sorry, we can't accommodate you," Duncan told the author.

Vick tried again later that year but was still denied access.

The library's acting director, Nicole Pugh, however, confused Vick when she stated, "The only religious purpose the room can be used for is to conduct church business, but not religious instruction."

According to the Putnam Library Room Policy, "meeting rooms are available for public gatherings of a civic, cultural, or educational character. Rooms are not available for meetings of social, political, partisan, or religious purposes; for the benefit of private individuals or commercial concerns; for the presentation of one side of controversial matters; or when, in the judgment of the Library Board, disorder may be likely to occur."

The local author attempted for the third time to reserve the public meeting room early this year, hoping that the library changed its policy, but to no avail.

Attorneys representing Vick argue that the library violated the author's freedom of speech rights and that the room policy discriminates against speech on the basis of the speaker's viewpoint. They also contend that though the content of the discussion would concern religion, it would be educational, civic, and cultural in character.

"Vick's desired meetings would be no different from the discussion of any other book in a typical book club setting," the complaint reads. "Vick does not understand how discussion of a book concerning a religious view can be singled out and excluded when the meeting room is used to discuss other viewpoints." Reported in: *Christian Post,* August 13.

colleges and universities

Irvine, California

University of California, Irvine, officials have rejected the Muslim Student Union's appeal to lift a suspension following the disruptions made during an Israeli ambassador's speech earlier this year.

"To our tremendous disappointment, UCI has maintained the suspension off the Muslim Student Union for the fall quarter until December 31, 2010," said Reem Salahi, the organization's attorney. The suspension, which was originally supposed to be year-long, will be followed by two years of probation. Officials also ordered 100 collective hours of community service, Salahi said.

"This has been a difficult decision," said UCI Vice Chancellor for Student Affairs Manuel Gomez in a statement. "But in the end, this process demonstrates the University of California, Irvine's commitment to values, principles and tolerance. Although this has been a challenging experience for all involved, I am confident that we will continue to move forward as a stronger, more respectful university community."

The organization's leaders will meet monthly with the director for student conduct for one year to discuss the importance and meaning of First Amendment rights and the responsibilities of leadership, among other topics, according to university officials.

In addition, the sanctions are applied to the group as a whole and do not address disciplinary processes for those arrested at the event, according to officials.

The suspension was the result of a months-long internal review by the university following the arrest of eleven students during Israeli Ambassador Michael Oren's speech on campus in February. Oren was repeatedly interrupted by the union members.

The Jewish Federation had obtained documents from the university through the Freedom of Information Act and released information in June about the Muslim union's suspension. Many local Jewish groups applauded the university's action, citing that the students' behavior disregarded civil discourse and school policies.

A May 27 letter sent to the Muslim Student Union by Lisa Cornish, senior executive director of Student Housing, detailed the violations that were believed to have been committed by the union and the disciplinary action taken against them. Cornish's letter said the university's decision to suspend the union was based on Google Group e-mails, personal observations by university officials including the police chief, observations by other students and "the fact that all of the disruptors retained the same attorney to represent them in the student conduct process."

Cornish's letter addressed how the Muslim Student Union held a meeting February 3 prior to the ambassador's visit and methodically discussed how to disrupt the event. The students talked about sending "the speaker a message–our goal should be that he knows that he can't just go to a campus and say whatever he wants" and "pushing the envelope."

Cornish's letter stated that the students planned every detail of the disruption including scripting statements. It also ordered the union to cease operations from September 1, a suspension that would be active until August 31, 2011.

Salahi said the Muslim Student Union maintains that it did not sponsor the disruptions–though some group officers and members participated–and that overall members were deemed "guilty by association."

Muslim advocacy groups said the suspension was severe, draconian and selective. Banning the group would deprive Muslims students from a critical campus resource, they said.

Hadeer Soliman, the Muslim Student Union's incoming vice president, said members were "shocked and disappointed by the university's decision against MSU." She said Muslim students have endured personal attacks and received hate mail attributed to a rising anti-Muslim sentiment. Reported in: *Orange County Register,* September 3.

Chicago, Illinois

The University of Illinois Board of Trustees typically approves faculty promotions and honors—which have been vetted by various campus committees—without discussion. No one can remember the last time the board, for instance, rejected emeritus status when proposed on behalf of a retiring faculty member.

But in September the board did just that, rejecting emeritus status for William Ayers, who retired in August from his position as professor of education at the university's Chicago campus, where he had taught since 1987. The university's board voted down emeritus status for Ayers at the urging of Christopher Kennedy, the board chair, who cited *Prairie Fire*, a book Ayers co-wrote in 1974 and that is dedicated to 200 people whom the authors called "political prisoners." One of those named is Sirhan Sirhan, who assassinated Senator Robert F. Kennedy, Christopher Kennedy's father.

In his remarks at the meeting, Kennedy noted that the university doesn't award emeritus status automatically, but that it is an honor that must be requested by the retiring professor and endorsed by various campus officials. As a result, Kennedy said—according to press accounts—"our discussion of this topic therefore does not represent an intervention into the scholarship of the university, nor is it a threat to academic freedom."

But citing *Prairie Fire*, he said: "I intend to vote against conferring the honorific title of our university to a man whose body of work includes a book dedicated in part to the man who murdered my father, Robert F. Kennedy. There can be no place in a democracy to celebrate political assassinations or to honor those who do so."

The board's action sparked yet another debate over Ayers, who was a leader of the Weather Underground who went on to be an education professor at Illinois-Chicago and who gained renewed attention during the 2008 presidential election when Republicans attempted to link him to Barack Obama (although there wasn't evidence to suggest much more of a tie than their being neighbors who both moved in academic circles).

To many, Ayers's Weather Underground years were never forgivable. Especially after his past was publicized again in 2008, some of his speeches at campuses nationwide prompted protests or were even called off. But at the university, he has long been a popular teacher, and his numerous books and articles have earned him considerable respect among education scholars.

The Illinois board's action prompted discussion over how much the emeritus status should be considered routine, and whether, if a review is appropriate, activity that predated one's academic employment should be considered.

Ayers has not commented on the board's action nor responded to requests for comment. But in a video posted two years ago on the conservative website Eyeblast TV, he said in response to a question at a book signing that he had been "stupid" to include Sirhan in the dedication, and that he was really concerned about all prisoners and what happens to them.

Much of the Chicago press has expressed incredulity that anyone might have found reason to dedicate anything to Sirhan. Eric Zorn, a columnist for the Chicago Tribune, wrote: "I realize this was 36 years ago and that Vietnam-war era radicals were given to over-the-top and regrettable statements. But hanging the mantle of glory on an assassin (who murdered someone who was campaigning to end U.S. involvement in Vietnam) simply because he was motivated by political consideration? Did that ever make any damn sense? By those twisted standards, did James Earl Ray, the assassin of Martin Luther King Jr., qualify for a literary nod?"

Yet others see problems with the board's action, however understandable Christopher Kennedy's reaction might be.

Cary Nelson, national president of the American Association of University Professors and a professor emeritus of English at Illinois's Urbana-Champaign campus, said that "based on his service to the university and his performance as a colleague, Ayers deserved emeritus status. Indeed emeritus status should be—and usually is—granted routinely." He added that "people who are denied it perceive their life's work to have been officially disparaged."

Nelson said that he could not fault Christopher Kennedy "for a vote based on deep personal feeling," but said "it would have been more professionally appropriate simply to recuse himself."

John Wilson, author of *Patriotic Correctness: Academic Freedom and Its Enemies*, wrote on his blog College Freedom that the Illinois board was wrong. "Kennedy is certainly correct to condemn Ayers for bizarrely including Sirhan Sirhan among a list of 'political prisoners' listed in the dedication of a 1974 book Ayers co-wrote as part of the Weather Underground," Wilson wrote. "But if that was the basis of the denial of Ayers' emeritus status, then it is clearly wrong and unconstitutional. The University of Illinois requires merit to be the basis of emeritus status. And the First Amendment prohibits using political criteria for employment decisions at public colleges. Using a book dedication written years before Ayers became a professor cannot possibly be a judgment of his performance at UIC. This is the first time in memory that the Board of Trustees has ever rejected an 'emeritus' appointment, and the role of politics in the decision is unmistakable."

The University of Illinois at Chicago's faculty handbook describes emeritus status as recognizing "extraordinary service," and states that faculty members must have taught at least seven years at the institution to be eligible. But several Illinois officials confirmed that the status has typically been awarded to anyone who has retired after seven years of teaching, without a review of one's statements prior to becoming a professor. And such treatment is fairly standard in academe—with the privileges of emeritus status generally being symbolic, not financial.

There have been other instances of controversy for other, rare denials of emeritus status. As recounted in a report by the AAUP, Antioch University in 2008 denied emeritus status to two longtime faculty members at Antioch College. The report—which has been contested by the university administration—states that the university board inappropriately used its own criteria to evaluate those faculty members, going beyond the norms of honoring those who had made sustained contributions to the college.

The College Freedom blog is correct that federal courts have typically backed the right of public college and university faculty members to be reviewed for employment status without regard to their political statements, finding that they enjoy First Amendment protection. But in at least one court case over the denial of emeritus status, the key reason a retired faculty member did not prevail was the court's finding that emeritus status simply wasn't worth that much—at least at his institution.

The ruling came in 2006 by the U.S. Court of Appeals for the Second Circuit, which rejected a lawsuit by a retired professor who was denied emeritus status at the Fashion Institute of Technology of the State University of New York. The professor, who owned property near the FIT campus, said that he was denied emeritus status because he had criticized the institute's building plans. The appeals court said that there was evidence that the denial of emeritus status was linked to the professor's statements. But to have a First Amendment suit, the court ruled, the retired professor needed evidence of an "adverse employment action," such as loss of pay or change in duties. Because the greatest value of emeritus status at FIT was the right to use the title, the court found, it has "little or no value" and denying the title thus does not raise First Amendment issues.

The court did offer hope for faculty members who want to be assured of First Amendment protection when they come up for emeritus reviews. Noting that "at some institutions other than FIT, emeritus status apparently carries with it specific and well-defined benefits" that go beyond what is provided to all retirees, the court said that in such cases, there could be free speech issues associated with a denial of emeritus status. "We do not determine that denial of emeritus status could never support a finding of First Amendment retaliation," the court found. Reported in: insidehighered.com, September 27.

Minneapolis, Minnesota

Top officials at the University of Minnesota have told faculty representatives they plan to review their institution's actions in connection with a documentary on the environment to ensure academic freedom was not compromised.

The controversy stemmed from a decision by Twin Cities Public Television to postpone the October 5 premiere of *Troubled Waters: A Mississippi River Story* at the request of Karen Himle, the university's vice president for university relations. The station has since agreed to show the film, but students and faculty leaders have asked whether administrators' actions in connection with the premiere's delay violated a university policy prohibiting institutional restraint on research and creative expression on matters of public concern. Reported in: *Chronicle of Higher Education* online, September 28.

Durham, North Carolina

Duke University's Student Government Senate voted September 8 to cut off funds for the campus chapter of the College Republicans, following the student group's decision last spring to remove its chairman allegedly because he is gay. According to the university's student newspaper, the senate also took a first step toward rescinding the College Republicans' charter because the chapter had manifested a "culture of discrimination." During a four-hour meeting, the senate also heard evidence that the gay chairman's removal was followed by death threats against him as well as antigay, racist, and anti-Semitic e-mail messages from a top College Republicans official on the campus. The Student Organization Finance Committee will make the final decision on the group's charter. Reported in: *Chronicle of Higher Education* online, September 9.

Grambling, Louisiana

Grambling State University, in responding to criticism of an e-mail policy that, it says, does not even exist, has ended up provoking a much bigger controversy over the policies it acknowledges having on the books.

In denying complaints by free-speech advocacy groups that it had imposed unconstitutional restrictions on its students' use of its e-mail system for political speech, Grambling on September 22 cited its policies governing the use of its e-mail system by its employees. The advocacy groups ended up objecting to those far more.

In a joint statement, the American Civil Liberties Union of Louisiana and the Foundation for Individual Rights in Education, known as FIRE, urged Grambling to immediately revise the e-mail policies it had cited. The groups argued that those policies violate Grambling employees' First Amendment rights and threaten to chill speech on the campus by leaving employees at risk of being disciplined if others somehow find their e-mails offensive.

The controversy originated with an e-mail sent to Grambling students by the university's media-relations office in July. It said: "Individuals who receive political campaign solicitations via university email are advised to delete these emails upon receipt. DO NOT FORWARD campaign solicitations using university email as this implies your support for the candidate and may be viewed as utilizing university resources for solicitation purposes, a violation of university and state policy."

Vanessa Littleton, a spokeswoman for the historically black public university, said that the purported student policy that the advocacy groups initially objected to was actually a directive to staff members that was accidentally distributed to students.

A student brought the media-relations office's e-mail to the attention of FIRE, which challenged the policy the e-mail described in a letter to Grambling's president, Frank G. Pogue. The letter, dated September 1, argued that the restriction described in the e-mail violates the First Amendment's free-speech protections and goes beyond any limitations imposed by Louisiana law, which, FIRE said, does not limit the right of students or faculty members who are not classified employees to solicit political contributions from one another.

"With the elections just weeks away, Grambling must act now to restore its students' and faculty members' rights," Will Creeley, director of legal and public advocacy for FIRE, said.

Grambling did not respond to the letter from FIRE until September 22 when it issued a statement that said Grambling "does not prohibit students or employees from political expression."

The statement went on to quote the university's formal e-mail policy for employees. It states that the e-mail system "shall not be used for the creation or distribution of any disruptive or offensive messages, including offensive comments about race, gender, hair color, disabilities, age, sexual orientation, pornography, religious beliefs and practice, political beliefs, or national origin." The policy urges employees who receive any offensive e-mail with such content from another employee to "report the matter to their supervisor immediately," and goes on to say that employees also are forbidden from using Grambling's e-mail system to send jokes or chain letters.

FIRE and the Louisiana ACLU responded with a statement leveling a host of criticisms at the cited policy. Among them, the statement said: "It is not clear what constitutes an 'offensive message,' nor how anyone will know whether someone else will take offense at any particular message." The statement added, "Most 'offensive messages' are fully protected by the First Amendment," rendering the university's prohibition "impermissibly overbroad and vague."

Along similar lines, the statement said, the university lacks any constitutional authority to ban e-mailed jokes, and its policy does not contain any clear definition of a joke or chain e-mail, "leaving students and faculty to guess at what content is and is not forbidden" and having "to ponder the sense of humor of each recipient."

The statement argues that, by relying on undefined or vague terms like "offensive," the university policy grants administrators there "unbridled discretion to censor or punish protected speech." Reported in: *Chronicle of Higher Education* online, September 22.

Charlottesville, Virginia

Four groups have filed a legal brief in support of the University of Virginia's challenge to Attorney General Kenneth T. Cuccinelli II's request for documents in a fraud investigation of a prominent climate researcher, Michael E. Mann, a former Virginia professor. The American Association of University Professors, the American Civil Liberties Union of Virginia, the Thomas Jefferson Center for the Protection of Free Expression, and the Union of

Concerned Scientists argue in the brief that Cuccinelli's request violates the professor's and the university's rights to academic freedom. In the brief, the groups also question Cuccinelli's grounds for the investigation. Scientific and academic bodies have cleared Mann of allegations of scholarly misconduct, they say.

Previously, in a petition prefaced with lofty language from Thomas Jefferson, lawyers for the University of Virginia asked a state court on to stay or overturn the "unprecedented" demand by the state's attorney general for more than a decade's worth of documents related to the prominent climate researcher formerly on the university's faculty.

Mann taught at the university from 1999 to 2005 and is now director of the Earth System Science Center on Pennsylvania State University's main campus.

In its petition, the university argued that the "civil investigative demand" issued by the attorney general, Kenneth T. Cuccinelli II, does not meet the requirements of the 2002 law he cited in making it, the Virginia Fraud Against Taxpayers Act, because the demand does not specify "the nature of the conduct constituting the alleged violation," or even why Mann was singled out for investigation.

The petition also said that four of the five grants about which the attorney general sought information were made by the federal government, to which the Virginia law does not apply, and that the fifth, an internal university grant, was made before the law's 2003 effective date. The law is not retroactive.

Brian J. Gottstein, a spokesman for Cuccinelli, said that the attorney general's office would respond to the petition after reviewing it thoroughly. Cuccinelli, a Republican who has said that he questions climate researchers' global-warming findings, maintains that he opened the investigation because "at least some information suggests" that Mann applied for the grants using research data that he knew were inaccurate. Cuccinelli has also said he is not investigating Mann's academic work. "That subpoena is directed at the expenditure of dollars."

Mann is one of the climate-change researchers affected by the so-called Climategate theft of e-mails from scholars at the University of East Anglia, in England. Global-warming skeptics have asserted that some of the e-mails show that researchers manipulated research results, but a series of investigations on both sides of the Atlantic have so far uncovered no fraudulent conduct.

Cuccinelli's investigation of Mann has drawn criticism from scholars in Virginia and elsewhere. Among critics have been the groups filing the brief in August. While some have interpreted the investigation as a warning shot across the bow of Virginia's universities, Mann said he believed it was part of a larger strategy to collect and review climate researchers' e-mails for anything that casts doubt on their findings.

The attorney general's demand, delivered to the university late in April, sought not only documents related to the five grants but also what the university's lawyers called "a voluminous body of academic and scientific information, documents, and correspondence related to the merits of scientific research spanning a period of more than ten years." The lawyers added that the demand left unexplained the "nexus between these broad requests and the five grants" or any other potential violation of the fraud law.

The petition argued that Cuccinelli's demand threatens "bedrock principles" of academic freedom and of limits on the power of government, and it adds that the demand's "sweeping scope is certain to send a chill" though the state's colleges and universities.

The fraud law "does not authorize the attorney general to engage in scientific debate," the lawyers for the university wrote. "Unfettered debate and the expression of conflicting ideas without fear of reprisal are the cornerstones of academic freedom; they consequently are carefully guarded First Amendment concerns. Investigating the merits of a university researcher's methodology, results, and conclusions (on climate change or any topic) goes far beyond the attorney general's limited statutory power." Reported in: *Chronicle of Higher Education* online, May 27, August 18.

privacy

Washington, D.C.

Microsoft Corp. is urging an overhaul of U.S. laws for electronic privacy to help new services such as cloud computing, a technology that may double sales in five years.

As more data are stored on remote servers and away from personal computers, a 1986 digital law needs to be updated to give consumers confidence their information is protected, Brad Smith, Microsoft's general counsel, said September 22 at a Senate Judiciary Committee hearing in Washington.

"The law needs to catch up," Smith said after the hearing. Cloud computing is "a critical part of the future and quite central to all that we're doing."

Collecting and storing data using remote computer servers, called cloud computing, may generate global sales of $148.8 billion by the end of 2014, up from $58.6 billion last year, according to researcher Gartner Inc. in Stamford, Connecticut. If consumers worry about online security, it could limit the industry's growth, Smith said in prepared testimony.

Microsoft sells cloud-computing software such as HealthVault, which helps patients manage chronic health conditions by storing data online, and Windows Azure, which lets a company such as Domino's Pizza Inc. manage its orders when demand is high, Smith said.

While the U.S. Constitution shields letters and telephone calls from government seizure, data transferred to a third party may lack such protection.

Representatives of Google Inc. and Amazon.com Inc. also testified at a House Judiciary Committee hearing in support of recommendations to update the privacy law by Digital Due Process, a coalition that also draws support from

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success stories

library

Broken Arrow, Oklahoma

The Broken Arrow school board voted to keep a book on the shelves of the Sequoyah Middle School library that a parent had asked be removed because of several swear words in the text.

The book, *Shooting Star*, by Fredrick McKissack Jr., is about a high school football player who after becoming discouraged about his size starts using steroids to bulk up, resulting in negative effects on his life and on his personality.

The district's challenged materials policy allows the school-level committee to decide whether to leave the book in the collection as it is, put a grade-level restriction on the book or remove it entirely from the collection. Once the committee issues a decision, a second district-level committee can issue a decision, and then the person challenging the ruling can appeal the matter to the school board.

Last spring, the parent followed the district's challenged materials process and asked that the book be removed, and a school-level review committee decided that the book should stay on the library's shelves with access to the book limited to eighth-grade students and up. The district-level committee overturned the restriction on the book and allowed it to remain on the shelves available to all middle school students.

That decision was appealed by the parent to the school board for review and the subject of an August 16 board hearing.

Kelli Smith, the parent who challenged the book, told the board that her 12-year-old son checked the book out from the library, but brought it to her after getting about halfway through, concerned about the swear words in it. Smith said she counted 45 uses of "the f-word" as well as numerous uses of other swear words.

"I read it in its entirety and I was appalled," Smith said. "This is a basic issue of appropriateness for children."

Smith pointed out that the district's policy prohibits students from using such words. "You cannot have a policy against vulgar and profane language on one hand and feed it to your students with the other, that's called hypocrisy," Smith said. "If you find this type of language unacceptable and will not tolerate it, then don't tolerate it."

Amy Fichtner, assistant superintendent of instructional services, and the school's legal counsel, Bryan Drummond, both told the board that the book must meet the criteria laid forth in the district's materials policy, and that one part of the criteria cannot be favored over another.

Fichtner said parents can choose to have restrictions placed on what material their children can view, and some have gone as far as not allowing their children to check out any books from the library.

"I absolutely honor the right of any parent to say 'this is a piece of material I do not want my child to read,'" Fichtner said.

After several board members expressed concern that the book may not be appropriate for children younger than eighth grade, board member Cheryl Kelly made a motion to restrict access to the book to only eighth grade and up. However, before a vote could be taken, Drummond warned the board that by voting to restrict access to the book "basically, you are banning the book at lower grades, which means you need to set out in detail why this book does not meet selection criteria for those lower grades based on criteria in the policy."

After discussing the issue, Kelly rescinded her motion and made a new motion to uphold the second review committee's decision, though board member Jerry Denton and other board members stated that they would like to review the materials policy in the future.

The vote was 4-1 in favor of upholding the committee's decision, with board member Terry Stover dissenting.

Smith said she was disappointed in the decision, and that the criteria for selection are intentionally vague. "I'm disheartened by the decision for all of the children that will be exposed to the book and all of the parents who won't realize their exposure," Smith said. "I understand there's a process that has to be followed. I think the process is severely broken."

In January, a similar appeal was presented to the Union Public Schools board of education when a parent asked that *Buster's Sugartime!*, a children's book that mentions a same-sex couple in Vermont, be removed from one of the school's libraries. The board voted to keep the book on the shelves. Reported in: *Tulsa World*, August 17. ☐

(wiretap . . . from page 236)

of a legally mandated wiretap function to spy on top officials' phones, including the prime minister's. "I think it's a disaster waiting to happen," he said. "If they start building in all these back doors, they will be exploited."

Susan Landau, a Radcliffe Institute of Advanced Study fellow and former Sun Microsystems engineer, argued that the proposal would raise costly impediments to innovation by small startups. "Every engineer who is developing the wiretap system is an engineer who is not building in greater security, more features, or getting the product out faster," she said.

Moreover, providers of services featuring user-to-user encryption are likely to object to watering it down. Similarly, in the late 1990s, encryption makers fought off a proposal to require them to include a back door enabling wiretapping, arguing it would cripple their products in the global market.

But law enforcement officials rejected such arguments. They said including an interception capability from the start was less likely to inadvertently create security holes than retrofitting it after receiving a wiretap order.

They also noted that critics predicted that the 1994 law would impede cellphone innovation, but that technology continued to improve. And their envisioned decryption mandate is modest, they contended, because service providers—not the government—would hold the key.

"No one should be promising their customers that they will thumb their nose at a U.S. court order," Caproni said. "They can promise strong encryption. They just need to figure out how they can provide us plain text."

In a related development, former CIA Director Michael Hayden told reporters that cyberterrorism is such a threat that the U.S. president should have the authority to shut down the Internet in the event of an attack.

Hayden made the comments during a visit to San Antonio where he was meeting with military and civilian officials to discuss cyber security. The U.S. military has a new Cyber Command which is to begin operations on October 1.

Hayden said the president currently does not have the authority to shut down the Internet in an emergency. "My personal view is that it is probably wise to legislate some authority to the President, to take emergency measures for limited periods of time, with clear reporting to Congress, when he feels as if he has to take these measures," he said in an interview on the weekend. "But I would put the bar really high as to when these kinds of authorities might take place," he said.

Hayden likened cyberwarfare to a "frontier."

"It's actually the new area of endeavor. I would compare it to a new age of exploration. Military doctrine calls the cyber thing a 'domain,' like land sea, air, space, and now cyber … It is almost like a frontier experience," he said.

Hayden, a retired U.S. Air Force general, was director of the Central Intelligence Agency during the administration of President George W. Bush from 2006 to 2009. Reported in: *New York Times*, September 27; *Los Angeles Times,* September 26. ☐

(Pentagon . . . from page 239)

risk-taking troublemaker. He describes participating in a midday raid on a telephone facility in Kabul to download the names and numbers of all the cellphone users in the country and proposing an intelligence operation to cross into Pakistan and spy on a Taliban headquarters.

In much of the book, he portrays himself as a brash officer who sometimes ran into resistance from timid superiors. "A lot of folks at DIA felt that Tony Shaffer thought he could do whatever the hell he wanted," Shaffer writes about himself. "They never understood that I was doing things that were so secret that only a few knew about them."

The book includes some details that typically might be excised during a required security review, including the names of CIA and NSA officers in Afghanistan, casual references to "NSA's voice surveillance system," and American spying forays into Pakistan.

David Wise, author of many books on intelligence, said the episode recalled the CIA's response to the planned publication of his 1964 book on the agency, *The Invisible Government*. John A. McCone, then the agency's director, met with him and his co-author, Thomas B. Ross, to ask for changes, but they were not government employees and refused the request.

The agency studied the possibility of buying the first printing, Wise said, but the publisher of Random House, Bennett Cerf, told the agency he would be glad to sell all the copies to the agency—and then print more.

"Their clumsy efforts to suppress the book only made it a bestseller," Wise said. Reported in: *New York Times*, September 10, 18. ☐

(censorship dateline . . . from page 244)

Humble, Texas

After four authors cancelled their appearances, the Humble Independent School District's 2011 Teen Lit Fest was cancelled. The author's cancellations came in response to the district's decision to not welcome a teen author who had expected she would attend.

Best-selling author Ellen Hopkins was asked not to attend amid concerns about the content of some of her work. As a result of that decision, other authors withdrew their names to stand against the district's "censorship."

Hopkins writes about teen issues and has spoken at Kingwood High School and Kingwood Park High School in the past. She said both events went well and that is when she was invited by a Humble ISD librarian to attend Lit Fest.

Hopkins said she gladly accepted and looked forward to the event until she received another e-mail that stated the district had to "remove" her from being a featured author. The letter stated that a middle school librarian had expressed concerns with some parents in the district and those parents expressed concerns as well.

As a result, Superintendent Dr. Guy Sconzo suggested Hopkins not attend the 2011 festival.

"I received some concerns expressed to me by some of our parents regarding their feelings that Ms. Hopkins' books were not appropriate for middle school age children," Sconzo said. "Being forever grateful and indebted for the amazing 'above and beyond the call of duty' work our librarians have done every year to provide a Lit Fest for our community and having attended all of them, I personally and repeatedly witnessed how positive our parents, students and community have viewed them.

"I therefore decided that it would be better not to jeopardize any reactions to the event and negate the concerns of some of our parents and asked that Ms. Hopkins not be invited to this year's Teen Lit Fest."

The literature event takes place every other year and has been free and open to the public. In the past, activities have included a panel of seven authors who answer students' questions, sign books and give out door prizes.

"The purpose of the Lit Fest is to connect students with authors to promote the love of reading," librarian Susan Schilling said.

Hopkins says promoting reading and writing is her goal when attending events with young people. She has won numerous awards for children's writing and says there is no reason she shouldn't be a part of the literature event.

"I hear from readers as young as 11 and as old as 75," Hopkins said. "I talk about issues that impact these teens every day. I write to try to shed some light on some of the issues. I think I should be there for those teens."

The authors who withdrew from the event in response to the Hopkins decision were Pete Hautman, Melissa de la Cruz, Tera Lynn Childs and Matt de la Pena.

"Over the past 15 years of visiting schools and libraries I have been 'uninvited' on two occasions," Hautman said in his public blog. "It is a terrible thing to be told by educators that your life's work is 'inappropriate' for its intended audience."

Todd Strasser has been to Humble once before and was looking forward to attending the 2011 Lit Fest. Like the other writers, he learned of the situation but chose not to withdraw his name. In an interview with author and blogger Katie Davis, Strasser shared why he came to his decision.

"The idea of writers boycotting the festival is sort of abandoning them (HISD). I think we should all go and speak about the First Amendment and why it is so important," Strasser said.

Valerie Jensen serves on several young adult committees with the Texas Library Association, and part of that job involves connecting teens and reading. Jensen has had the opportunity to work with Hopkins over the years and said she has been great with teens in the past.

"Through the times that I have been able to see and share a conversation with Ellen personally, they have been great moments in my life, and with her books she shares something so personal and unique," Jensen said. "From a librarian's point of view, I see teens struggle with finding the right book to read. Many of them know what they want, others need a little guidance. My job is to try my best to put the right book in their hands. Ms. Hopkins is courageous by writing for teens."

Jensen said Humble ISD made a mistake by not allowing Hopkins to attend the event and that other authors dropped their names from the list because they understand that.

"We are authors and we believe in the power of books and knowledge. So authors dropping out is not so much in support of me, but a stand against censorship," Hopkins said. "No one from the district ever came to me until they said to go away. They didn't even bother to ask me what I would talk about. I wish they would have just voiced any concerns. They would have learned that I just wanted to talk about the writing process and how I got to where I am." Reported in: *Humble Observer*, August 24. ☐

(is it legal? . . . from page 256)

AT&T Inc., Intel Corp. and Internet technology companies.

"Compelled disclosure of content should require a search warrant, just as obtaining content out of a person's desk drawer would," said Paul Misener, vice president for global public policy at Amazon.com.

The Electronic Communications Privacy Act was passed by Congress in 1986 in an effort to give law enforcement agencies access to information while preserving an individual's right to privacy.

"We recognize that enterprises and individual consumers will only use new technologies if they have confidence that their information will be reasonably protected," Smith said in his testimony yesterday.

The law provides different levels of protection for electronic messages, he said. E-mails stored for less than 180 days have more protection than older messages. A document stored on a PC's hard drive has greater protection than a similar item saved on a "cloud," he said.

"Microsoft supports changes that will ensure that users do not suffer a decrease in their privacy protections when they move data from their desktop PCs to the cloud," Smith said in his prepared comments.

Senator Patrick Leahy, the committee's chair and a Vermont Democrat, said the panel would begin work on legislation to overhaul the law, without giving a specific time line. Reported in: *Bloomberg News*, September 23. ☐

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