
U.S. NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE



KIDS AND THE INTERNET: THE PROMISE AND THE PERILS
AN NCLIS HEARING IN ARLINGTON, VIRGINIA
NOVEMBER 10, 1998

NCLIS Hearing 1998-1



NCLIS

U.S. National Commission on Libraries and Information Science
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The National Commission on Libraries and Information Science is a permanent, independent agency of the federal government, established in 1970 with the enactment of Public Law 91-345. The Commission is charged with:

- advising the President and the Congress on the implementation of policy;
- conducting studies, surveys, and analyses of the library and informational needs of the nation;
- appraising the adequacies and deficiencies of current library and information resources and services; and
- developing overall plans for meeting national library and informational needs.

The Commission also advises Federal, state, and local governments, and other public and private organizations, regarding library and information sciences, including consultations on relevant treaties, international agreements and implementing legislation, and it promotes research and development activities which will extend and improve the nation's library and information handling capability as essential links in the national and international networks.

Commissioners and staff at the time of the hearing include:

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Martha Gould, *Vice Chair*

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The views, opinions and recommendations expressed in the hearing transcript and submitted statements are those of the identified individuals and organizations, and not necessarily those of the U.S. National Commission on Libraries and Information Science.

Cover photo by Martin H. Simon shows, from left to right, Donald Isaac, Jillian Uvena and Catherine Russell.

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1110 Vermont Avenue, NW, Suite 820, Washington, DC 20005-3552



United States National Commission on Libraries and Information Science

June 1999

The President
The White House
Washington, DC 20500

The Vice President
President of the Senate
United States Senate
Washington, DC 20510

The Speaker of the House
United States House of Representatives
Washington, DC 20515

Dear Mr. President, Mr. Vice President and Mr. Speaker:

In fulfilling the Commission's statutory mission to advise the President and the Congress on the library and information needs of the public, I am pleased to present *Kids and The Internet: The Promise and The Perils*. This publication includes the edited transcript of the Commission hearing held at the Freedom Forum on November 10, 1998 as well as statements and other materials submitted for the record.

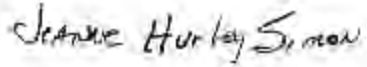
After listening intently to the testimony and carefully reviewing the statements submitted for the record, the Commission determined that a broad national approach to the issues of protecting children by limiting their access to the Internet in public and school libraries was inappropriate and, very likely, unworkable. On the other hand, the Commission felt it was very much the responsibility of local governing authorities to address these issues head on and establish policies for the public and school libraries in their jurisdictions.

The Federal government can, and should, facilitate the development of appropriate local policies through the preparation and dissemination of practical guidelines, designed to assist librarians and library trustees (or other governing bodies) in their efforts to evaluate and respond to the promise and the perils of Internet access for children. Based on the input from the hearing, the Commission prepared such guidelines, and they are presented in the Foreword to this publication. They were also prepared in the form of a widely distributed brochure that is proving to be a vital and extremely useful document for the entire library and information services community.

We know that you share our recognition of the critical role of public libraries in assuring broad public participation in the networked environment as well as our concern for the safety of children who take advantage of this incredible resource.

Thank you again for your continued interest in and attention to networked information services for all citizens of this nation through libraries and schools.

Sincerely,

A handwritten signature in black ink that reads "Jeanne Hurley Simon". The signature is written in a cursive style with some loops and flourishes.

Jeanne Hurley Simon
Chairperson

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FOREWORD

The U.S. National Commission on Libraries and Information Science (NCLIS) was established in 1970 by Public Law 91-345 as a permanent, independent agency of the federal government charged with advising the executive and legislative branches on national library and information policies and plans. Specifically, the Commission was established to advise the President and the Congress on the library and information needs of the nation and the policies and plans necessary to meet those needs, and to report directly to the White House and the Congress on the implementation of national policy. The Commission conducts studies, surveys and analyses of the nation's library and information needs. It appraises the adequacies and deficiencies of current resources and services; promotes research and development activities; conducts hearings, issues publications; and develops overall plans for meeting national library and informational needs and for the coordination of related activities at the federal, state, and local levels.

In keeping with its mission and purpose, the Commission conducted a hearing on *Kids and The Internet: The Promise and The Perils* at the Freedom Forum in Arlington, Virginia, on November 10, 1998. While we fully recognize the unprecedented value of the Internet and the seemingly limitless information available through the World Wide Web, the hearing offered the opportunity to hear firsthand from experts on the problems and complex issues arising from what NCLIS Vice Chair Martha Gould describes as the 'dark side of the Internet.' The hearing provided much information on both the promise and the perils of this new technological development and, in particular, how these issues affect librarians. Testimony was received from fifteen individuals with a multitude of perspectives on how to deal with this issue.

After listening intently to the testimony and carefully reviewing the statements submitted for the record, NCLIS developed practical guidelines designed to assist librarians and library trustees (or other governing bodies) in their efforts to evaluate and respond to the promise and the perils of Internet access for children. These practical guidelines, offering balance and compromise, outline the promise; the perils; policy issues; and potential solutions for librarians and library trustees. They are also applicable to school librarians and school administrators.

These guidelines, initially prepared in the form of a brochure and widely distributed, are proving to be a vital and extremely useful document for the entire library and information services community.

The Promise

NCLIS recognizes and encourages the unprecedented benefits of the Internet and the vital role libraries play in providing Internet access.

- Libraries provide equal access to information.
- The Internet enlarges the knowledge of the world by use of technology and, through libraries, the benefits of information technology are shared with those previously denied access.
- The Internet provides an electronic gateway to an expansive array of current, timely information and knowledgeable experts around the globe.

- The Internet gives young people an opportunity to learn how to become critical information consumers.
- By providing immediate access to primary resources worldwide, the Internet extends the resources of individual libraries, no matter where they are located or what their size.
- The Internet facilitates communication among people of diverse locations and backgrounds, thus contributing to greater peace and understanding among people.
- Local governing boards of public institutions are best suited to determine policy regarding access to the Internet in their communities.
- The First Amendment to the U.S. Constitution provides a policy framework that encourages access to the widest array of facts and opinions and prohibits most governmental actions that limit such access.

The Perils

NCLIS acknowledges that the Internet presents challenging problems to libraries, especially when children are using the Internet at public and school libraries.

- Individual privacy may be eroded when children provide personal information about themselves and their families in order to register for certain web sites.
- False and misleading information may be perceived to be authoritative because it appears on Internet web sites.
- Library users and staff may be offended by the inadvertent or intentional display of objectionable material by other users.
- The anonymity of Internet e-mail and chat rooms can provide cover for pedophiles who prey on unsuspecting and vulnerable young people.
- The Internet can provide access to material, such as pornography, racism, and hate speech, that parents may not want their children to observe.
- The Internet can facilitate illegal activities such as copyright piracy, gambling, stalking, pedophilia, personal threats, extortion, and consumer fraud.
- Libraries may lack sufficient staff appropriately trained to provide individual assistance to children using the Internet.

Policy Issues

NCLIS believes that it is the responsibility of local library governing boards to develop Internet use policy and it appreciates that each board must answer a number of questions regarding the library's approach to Internet access. While NCLIS cannot presume to suggest individual answers to such questions – that, after all, is the responsibility of the local community – it can provide the following questions for consideration in development of an “acceptable use policy.”

- Can children use the Internet independently or do they need parental supervision or permission?
- Will the library adopt a code of conduct that must be signed by a parent and child before the child accesses the Internet?
- Will the library provide a gateway to guide its patrons?
- Will the library adopt a clear statement that Internet terminals may not be used for illegal activities?
- How does the library define illegal activities?

- Will users have to sign up to use Internet terminals?
- Will there be time limits on the use of Internet terminals?
- Will the results of users' research be visible to other users or will the library install privacy screens or other means to restrict public viewing?
- What does the library do when a user is discovered using an Internet terminal for illegal or improper use?
- How does the library handle user and staff complaints about others gaining access to illegal or objectionable sites?
- How will the library handle false accusations about illegal or improper use?
- Does the library's insurance coverage address matters arising from providing access to the Internet?
- How will the library handle access to functions such as chat and e-mail?
- How can the library instill practical "street smarts" on the part of librarians and users?
- How does the library train the governing board itself on the promise and perils of the Internet?
- How do the library and its governing board transmit concerns about Internet access to its funding authority?
- Will the library involve the local community through focus groups, public hearings and other means in the development of an Internet use policy?
- How will the library seek legal review of its Internet policy, both from its own legal counsel as well as from other legal experts?

Potential Solutions

NCLIS believes that libraries and their governing boards can take effective action at the local level to mitigate the perils facing children using the Internet.

- Libraries can implement procedures for gaining parental permission that describes what sort of access is permissible for their children.
- Separate terminals can be provided for adults and children, or multiple profiles can be installed on terminals, so that children are not allowed the same access as older people.
- Libraries can restrict the use of chat by children to sites that have been specifically approved (e.g., moderated chat groups, designated interactive sites such as homework helpers, museums and zoos).
- Privacy screens or recessed monitors can be installed on public terminals so that only the terminal user can see what is displayed.
- Libraries can require users to sign up for the use of Internet access terminals and acknowledge their understanding of the libraries' Internet use policies.
- Libraries can present their own web sites that point children to sites that are pre-selected and evaluated or link to search engines that offer levels of selectivity.
- Libraries can provide Internet training, education, and other awareness programs to parents, guardians and teachers that alert them to both the promise and the perils of the Internet and describe how children can have a safe and rewarding experience online.
- Internet access terminals can be configured with software – which can be turned on or off – that restricts access to designated web sites or specific Internet functions.

U.S. National Commission on Libraries and Information Science

As a direct result of this hearing, at its meeting in Seattle, Washington, December 3, 1998 the Commission adopted the following resolution:

The U.S. National Commission on Libraries and Information Science feels strongly that the governing body of every school and public library, in order to meet its trustee responsibilities, should establish, formally approve, and periodically review a written acceptable use policy statement on Internet access.

The Federal Role

While the Commission determined that policies and practices for protecting children by limiting their access to the Internet in public and school libraries are very much the responsibility of local governing authorities, the hearing also identified issues that are appropriately addressed at the Federal level. Federal law enforcement agencies, working with their counterparts at the state and local level, investigate and prosecute a range of illegal activities that utilize the Internet including copyright piracy, gambling, stalking, pedophilia, child pornography, personal threats, extortion, and consumer fraud.

Under the Children's Online Privacy Protection Act of 1998 (COPPA), the Federal Trade Commission is the lead agency developing regulations to assure that young children are not induced to provide personal information about themselves or their families when registering for or accessing commercial Internet sites located in the United States. There is still a need to address privacy issues for children over twelve years of age accessing commercial U.S. sites, as well as for all children accessing non-commercial sites in the U.S. and both commercial and non-commercial sites outside the U.S. Obviously development of any international rules, other than purely voluntary ones, will require Federal government participation.

Currently there are a limited number of organizations worldwide that license Internet domain names. Agreement among these organizations to establish and enforce specific naming conventions for use by Internet sites, whether commercial or not, that wish to distribute sexually explicit materials (for example) could facilitate the restriction of access to such materials by minors – much like the current rating system for movies limits access by unaccompanied minors. The Generic Top-Level Domain Policy Oversight Committee has proposed use of the domain designation .XXX in lieu of .COM or .ORG for sexually explicit sites. In her partial dissent to the Supreme Court's opinion on the *Communications Decency Act*, Justice Sandra Day O'Connor suggested that adult zones in cyberspace could keep children out of pornographic sites. The Federal government could take a leadership role in developing and promulgating a set of naming conventions for this purpose and implement them in the U.S. to evaluate their effectiveness. Definition of the sites required to use the designation, identification of sites that are not compliant, and enforcement mechanisms must be addressed as the new policy is put in place and implemented.

Congress continues to consider legislation that would require unsolicited commercial e-mail, often called SPAM, to include a reply address (or similar mechanism) to remove the recipient's name from future mailings. Some commercial bulk e-mail is already including this on a voluntary basis. Such a mechanism would allow recipients to protect themselves, and their children, from future mailings from the same source, whether the objectionable e-mail was pornographic or merely unsolicited advertising that is (to the recipient) "junk mail." Once again, the proposed legislation limits only domestic commercial Internet activity, so it does not protect recipients against equally objectionable, non-commercial or foreign SPAM and, of course, some objectionable material must come to the recipients in order for them to reject future mailings. Nevertheless, this is an important step in the

efforts to "civilize" the Internet and provide some protections comparable to those that currently exist for unsolicited mail delivered by the U.S. Postal Service.

Another issue that deserves greater attention at all levels of government is the availability of false and misleading information that may be perceived to be authoritative merely because it appears on Internet web sites. "Computer literacy" stresses knowledge of how to use equipment and software to obtain information. "Information literacy" stresses the skills necessary to be a discerning user of that information – evaluating the source as well as the content before relying on it. Children and adults seeking information on the Internet need to know that they should verify the information before relying on it – and how to verify the information. Schools and libraries need to teach "information literacy" to children as they assist them in the use of the Internet, and the programs for training and certifying teachers and librarians need to teach the teachers, so they can in turn impart the correct information to the students. The Commission and other organizations in the Federal government can call attention to the issue of "information literacy" and encourage programs that teach users of the Internet to be informed consumers.

Conclusion

The hearing provided a unique opportunity for concerned citizens, parents, public librarians, teachers, and representatives from educational, literacy and information services organizations, companies, associations, and institutions to offer comments, observations, and suggestions related to the federal role and responsibility for library and information services offered to children and youth. The information gained at this event provides the basis for the Commission's advice to Congress and to the Administration in formulating future national programs and plans related to this important issue. This publication provides the transcript of the hearing, as well as written statements submitted for the record, so that others may also evaluate and learn from this information.

The Commission's efforts do not end with publication of this hearing record. This record and the initial promulgation of the brochure on the promise, the perils, the policy issues and potential solutions are the first steps in an ongoing effort by the Commission to assist in the development and implementation of appropriate policies for public Internet access at all levels of government.

The vision of a "harm-free" Internet cannot be implemented by any one group working alone. It will require cooperation, the coordination of activities, and the commitment of individuals in all areas of education, library service and information policy. Working together we can enhance the promise and minimize the perils for our children as they experience the global reach and vast capacity of the Internet.

Commissioners Participating in the Hearing

Commissioners participating in the hearing on "*Kids and The Internet: The Promise and The Perils*" were:

- Jeanne Hurley Simon , Chairperson and Moderator
- Martha B. Gould, Vice Chair
- C. E. "Abe" Abramson
- Walter Anderson
- Rebecca T. Bingham
- Joan R. Challinor
- José-Marie Griffiths

- Frank J. Lucchino

Executive Director Robert S. Willard accompanied the Commissioners.

ACKNOWLEDGEMENTS

The members and staff of the U.S. National Commission on Libraries and Information Science express their sincere appreciation to everyone contributing to the success of this hearing. Their combined advice, guidance, suggestions, support and encouragement in the examination of this important issue are most valuable.

The Commission expresses deep appreciation to the witnesses. The individual and institutional commitment required to participate in efforts such as this hearing is, indeed, large. We are grateful for their participation. The Commission is also grateful to the individuals and organizations that provided written statements and other materials.

Andrew Vachss, a novelist and attorney who limits his practice to matters concerning children and youth, deserves special thanks for setting the tone for the hearing.

The NCLIS members and staff extend their sincere appreciation to Mr. Charles Overby, Chairman and CEO of the Freedom Forum, and to the staff of the Freedom Forum for their warm hospitality and invaluable assistance.

KIDS AND THE INTERNET: THE PROMISE AND THE PERILS

An NCLIS Hearing in Arlington, Virginia, November 10, 1998

1. Introductory Remarks: NCLIS Chairperson Jeanne Hurley Simon

CHAIRPERSON SIMON: Good morning everyone. I am Jeanne Hurley Simon, Chairperson of the U.S. National Commission on Libraries and Information Science. I welcome you to our hearing on *Kids and The Internet: The Promise and The Perils*. I will now take a few minutes to introduce our Commissioners and Executive Director.

To my right is our Vice Chair, Martha Gould. Mrs. Gould is the retired director of the Washoe County Library, Reno, Nevada.

To my left is Rebecca Bingham. Ms. Bingham is a national school library leader and the retired director of School Library Media Services, Jefferson County Public Schools, Louisville, Kentucky.

The next Commissioner is Dr. José-Marie Griffiths, Chief Information Officer of the University of Michigan and Executive Director of the Information Technology Division.

We are awaiting Commissioner Mary Furlong who is expected soon. Dr. Furlong is the founder of SeniorNet and CEO of Third Age Media, San Francisco, California.

I would like to introduce Walter Anderson. Mr. Anderson is the Editor and Executive Vice President of Parade Publications in New York City.

To my right is Frank Lucchino. Mr. Lucchino is a self-described "library zealot." He is a lawyer, has served as the Controller of Allegheny County, Pennsylvania, for 20 years, and is a trustee of the Carnegie Library of Pittsburgh.

Seated next to Mr. Lucchino is Joan Challinor of Washington, DC. Dr. Challinor is an historian and Chair of the Advisory Committee, Schlesinger Library on the History of Women in America at Radcliffe College.

I would like to introduce Abe Abramson. Mr. Abramson is a real estate broker and a library trustee from Missoula, Montana. How do you describe your dwelling place?

MR. ABRAMSON: Hub of five valleys.

CHAIRPERSON SIMON: To my left is our esteemed Executive Director, Robert Willard. Mr. Willard is a former Commissioner who assumed the onerous duties of Executive Director in February 1998. We are glad to have him in charge.

I expect Charles Overby, Chairman and CEO of the Freedom Forum, to be here any minute. We owe Mr. Overby a debt of gratitude for allowing us the use of this beautiful conference room. I am sure that if the sun were shining today, we could see much of Washington, DC. Anyway, we are grateful for the surroundings and the ambiance.

U.S. National Commission on Libraries and Information Science

For those of you who may not be aware of our esteemed background, the U.S. National Commission on Libraries and Information Science (NCLIS) was established in 1970 as a permanent independent agency of the federal government. Our charge is to advise the executive and the legislative branches on national library and information policies and plans. It is because of this important mandate that we are here today holding this very hearing.

The purpose of our hearing today is to deal with the complex issues arising from the intersection of an astounding technological development with our fundamental commitment to the well being of our children. This technological development is, of course, the emergence of the Internet as a means to make information from all over the world, as well as personal direct contact with individuals, easily available on inexpensive computer workstations.

The Commission, with its statutory mandate to advance the library and information needs of the American people, welcomes the advance of this technology. Through our surveys over the past four years, we have chronicled the growing availability of Internet access to library patrons. We have supported federal programs such as the Universal Services Fund, or "E Rate" program, to continue to expand access to the Internet through schools and libraries.

We recognize the unprecedented value of the Internet and the seemingly limitless information available through the World Wide Web. Never before have students of all ages been able to gain so much access to information to support their studies. But we also recognize what Vice Chair Martha Gould has referred to as the 'Dark Side of the Internet.' Here is where the ability to interact one-on-one and anonymously opens the door to pedophiles to prey on unsuspecting children. Here is where the widespread and unrestricted availability of information allows kids to see material from which caring parents would seek to protect them. Here is where the seemingly innocent questions asked in the context of registering for a kids-oriented website provide the basis for establishing a dossier of private information concerning a family's buying and other habits.

The Commission is especially sensitive to know how these issues affect librarians, and we are well aware of the policy debates swirling around them. There is an unrelenting and perfectly appropriate movement to provide increasing access in public libraries to the Internet for users of all ages. There is also a long-standing tradition within the library community that abhors any restriction on the flow of information. This tradition is strongly based on the principles of freedom of speech and press contained in the First Amendment to our Constitution.

Some policy makers would impose sweeping national approaches to deal with the problems of kids and the Internet. Others would advocate a complete absence of such restrictions. We on the Commission believe the proper approach, indeed approaches, likely are somewhere in between.

There are probably few metaphors that have been as overused as those of the information superhighway, with all the references to potholes, toll roads, side roads and access ramps. But there may be a lesson we can learn from this analogy.

There is no doubt that when a society builds a road, it wants all of its citizens to use it. Nonetheless, special rules do apply to children. Parents are required to use special seats or seat belts in their cars for their kids. Kids have to be of a certain age before they are allowed to drive independently, and they must prove their ability to do so before society lets them drive. Highways are also used to deliver consumer goods to the public, but again age-based restrictions on the use of certain materials, such as tobacco and alcohol, are customarily enforced.

Now, I do not want to torture this metaphor any further, but of course all analogies are inexact. I bring it up because it provides a framework for our discussion today. We are going to be hearing from a number of individuals with a multitude of perspectives on how to deal with the problems I mentioned earlier.

Andrew Vachss, an attorney and an author whose practice deals exclusively with children, will be our first witness. Mr. Vachss will provide an overview from his unique perspective.

We will then hear from witnesses appearing in panels, generally representing a common theme or approach. For your information, a list of witnesses is available in the back of the room. Finally, we will provide an opportunity to hear from those individuals not requesting earlier participation.

Let me now interrupt my remarks to introduce Charles Overby. Charles, thank you for allowing us the use of this room, for all of the amenities and for the wonderful freedom of the Freedom Forum that we are enjoying here.

MR. OVERBY: Thank you. I wish the view today was better.

CHAIRPERSON SIMON: You cannot do everything, Charles. You have done enough for us.

MR. OVERBY: We are glad you are here, and we hope you enjoy your stay and that your hearing is productive.

CHAIRPERSON SIMON: Thank you very much. There will be an opportunity to hear from those individuals who are not on panels at the end of the day. Individual Commissioners may already have individual positions on many of the issues being discussed today. However, the Commission, itself, should not be regarded as having a position.

Today, we are here to listen and learn. Then, based on what we hear and learn and after reviewing the additional material to be submitted within the next 30 days, we will produce a hearing record. It is our hope that from this effort we will develop a set of practical guidelines for librarians and library trustees to consider in their individual circumstances as they deal with the perils facing kids and the Internet.

I want to express the Commission's deep appreciation to each and every witness. I know that the individual and institutional commitment required to participate in efforts such as this is, indeed, large. I say to all of you, thank you very much.

Now, I would like to ask our former Commissioner and current Executive Director, Bob Willard, to review the procedures for today's hearing.

2. Review of Hearing Procedures: NCLIS Executive Director Robert S. Willard

MR. WILLARD: Thank you, Chairperson Simon. Let me also express my words of welcome to you and our gratitude for your participation in today's event. If you have not done so, we ask that you sign the register located at the front of the room. This will become our formal mailing list, and we will stay in touch with people who have expressed an interest by their attendance today. We have a rigorous schedule for this hearing. Copies of the schedule are available in the vestibule as are other handouts.

At the end of the scheduled testimony, time permitting, there will be an opportunity for anyone not making prior arrangements to testify. If you would like to take advantage of this opportunity, please use the sign-up sheet or speak to Barbara Whiteleather who is seated in the front row.

I will now review the procedures. As Chairperson Simon indicated, speakers are assigned to panels. Each speaker will be allowed up to 12 minutes. We ask that the summary of the statements be presented in about five minutes; a timekeeper will give the witness a warning when they are down to their last minute. We will then have about seven minutes for questions and answers from the Commissioners. All of the members present are now seated at the table for the first witness. Then we will divide the Commission so that half of the members are participating in the questions and answers, and the other half will be seated in the audience. We will again switch members halfway through the hearing.

The entire hearing is being tape recorded so there will be a transcript of the entire event for review before putting together recommendations and a formal hearing report.

Finally, the Commission will be accepting written testimony from interested parties who were not able to be here, as well as supplemental testimony from today's speakers. Please submit your material no later than December 10, 1998. I think that takes care of the administrative matters.

I will now turn it back to the Chairperson.

3. Opening Speaker: Andrew Vachss

CHAIRPERSON SIMON: We have an excellent and wonderful person to lead off our hearing today. I am looking at Andrew Vachss, an attorney and novelist, a man who has devoted his life to defending children, whose biography and credentials fill pages and pages. But I am not going to go into that. Suffice it to say that a man who has limited his individual practice to defending children, has spent a lifetime on matters concerning children abuse, neglect, delinquency, and so on, knows what he is talking about. He not only knows what he is talking about; Mr. Vachss wants to share with us his knowledge from his marvelous background. He wants to tell us what we should be looking for and what we should be examining as we spend the rest of this day hearing testimony from the various panels.

Mr. Vachss, are you comfortable in starting off this morning?

MR. VACHSS: Sure.

CHAIRPERSON SIMON: Do you have enough light?

MR. VACHSS: Well, I did not realize you were going to tape-record this hearing. Had I known that, I would not have written the statement out.¹ I thought that was the only way to get it into the record. Therefore, I will be merciful. Since you have the written statement, I will just try to summarize it verbally. So I will not be reading it all.

CHAIRPERSON SIMON: Well, I would like to hear you read it, too.

¹ The materials submitted by Mr. Vachss begin on page 85 in Appendix A.

MR. VACHSS: Someone is going to have to cooperate and indicate their tolerance level because I have spoken a lot; I have spoken, literally, for people's lives in court. I have never, ever done it by reading. I would not trust a pastor who read a sermon. I just wouldn't, you know.

CHAIRPERSON SIMON: Do it your way.

Testimony of Andrew Vachss

MR. VACHSS: Well, I will try. But, if it appears stilted, awkward and formal, you know who to blame, all right?

America is a country that holds free expression of opinion to be sacred, but we don't want to be confused by that into believing that all opinions are equal. Today you are going to hear testimony about a very controversial subject, which was just summarized by Chairperson Simon to some extent.

There is a tension between those who want to preserve our freedom of information and those who believe a real threat to our children is being posed through that same medium. And, in this case, it is not the Internet—it is the library providing Internet access to the public.

Because I hope for your attention, because I want you to value my opinion, I need to take a couple of minutes to explain my standing to speak to those issues.

My first exposure to what I believe to be the greatest threat to children, not just here but on the planet, came 30 years ago. I was an investigator for the United States Public Health Service, and the agency's goal at that time was the eradication of sexually transmitted diseases. Syphilis was the big target. The way we did that was as follows: Somebody would test positive for syphilis in a clinic, they would dispatch one of us, and our job would be to persuade a person that we had never seen before in our lives to disclose his or her sexual contacts within the critical period. Sometimes 90 days, sometimes as long as a year. And once the person did that, we then had to find those people. So, sometimes you would be looking for a blond named Cookie that was one time in a bar in West Virginia for a half hour. But, since all of these people were, at minimum, potentially exposed to a disease that could kill them and, at worse, carrying it and spreading it, there was a real sense of urgency about it.

As you can imagine, some people were quite forthcoming about their sexual contacts, and other people—I want you to remember this was 30 years ago, okay? So even getting someone to disclose a homosexual contact was a difficult task. Investigators had no defined territories. I might be in a migrant labor camp in one day and in a penthouse another day. I would be in a juke joint, or I would be waiting after church services.

What did I learn from all this? I learned that child sexual abuse has absolutely no social or economic correlation. None whatsoever. It existed every single place I looked. You have to understand this: most people's knowledge of child sexual abuse is through the media. That means that if an alien visited this country in 1956 and read every book, every newspaper, watched every television show, listened to every radio program, they would return to their home planet concluding there is no child abuse at all; it doesn't exist.

When the media discovered child abuse, they were not particularly responsible about it, in my opinion. So, what we have today is very little knowledge about the sexual abuse of children. But we do have two belief-driven systems. The public is given a choice of believing that “one out of every five children will be sexually abused by the time they reach eighteen,” or that the whole thing is a “witch hunt,” driven by a tidal wave of “false allegations.” The truth, of course, lies somewhere in the much-less-newsworthy middle.

My own knowledge of the subject preceded the debates. It came from infants born with syphilis, from toddlers with prolapsed rectums and gonorrhea and from preteens already in an advanced stage of venereal disease. So while I do not subscribe to some of the hyperbolic “estimates” of the extent of child sexual abuse in America, I also know, beyond dispute, that some children are victimized everyday.

After I left that job, I became a field caseworker for the infamous New York City Department of Welfare. It is fashionable to talk about the dire effects of poverty upon children. It is another thing to see it -- and it is a hideous sight. But I did not see more of it there than I had seen in wealthier areas, and I learned something. And this is very, very important for public libraries. Poor people are documented better, okay?

If you bring your child with a spiral fracture—that, any doctor knows, is highly unlikely to be accidental—to an emergency room, the chances of being reported to the authorities are much higher than if you bring that child to your own private physician. That is a reality. People who are documented tend to over-exhibit in certain negative statistics.

I may lose some of you here because you are just not old enough to remember. But what I saw next was even uglier. When I left the Department of Welfare, it was to enter a war zone in a place called Biafra—a fledging country which literally vanished during a genocidal tribal conflict. It is now called Nigeria because there are no Biafrans left. If you want an update on Biafra, think about Rwanda or Bosnia, or think about what is left of the Kurds. It was a virulently tribal, in particular, genocidal war and, of course, the people who died most and quickest were children. Starvation was a weapon in that war. I saw that firsthand, too. After a while, I began to believe that children pay for every mistake we make, every error we make, every evil that we practice. It ends up being visited on children in some way. I began to wonder then, what happens to the children that survive this?

After I returned to America and recovered, I worked a number of jobs. Briefly, I was a juvenile probation officer, ran a community outreach center for urban migrants, and a re-entry organization for ex-convicts. Finally, I directed a maximum security prison for aggressive, violent youth. It was there I learned, with the kind of clarity only daily, intense contact can bring, the direct connection between early childhood abuse and neglect and later criminal conduct. But you need to understand that that connection has been oversold.

While there is no one-to-one correlation, while most abused children do not turn predator as adults—although they do continue to abuse themselves in a variety of ways, drug addiction, alcoholism, suicide; and to be especially good candidates for being abused by others—I have never met a gratification-driven criminal who was not abused as a child.

At this point I had spent my entire professional life trying to protect children. But the experience left me frustrated and angry. I was tired of spending so much of my time fighting to circumvent policies that were designed to fail. And I was tired of getting fired for trying. The government is not interested in hiring critics, and it is certainly not interested in hiring people who wish to do things differently than it has been done. Essentially, if you look at the helping professions, you want to call them progressive. Yet the way they defend their practices over and over is by saying, “This is the way we have always done it.”

That is when I decided to go to law school. And for the past 20 plus years, I have represented children. I could not immediately do that full time because there is no money in it. It is impossible to make a living. So, for a time, I financially balanced my practice with conventional criminal defense work, which paid quite well.

In 1985, my first novel was published and succeeded past my fantasy. So much so that, since then, I have been fortunate enough to be able to represent children exclusively, using the proceeds from publishing to make up the deficits.

The novels are Trojan horses; an organic extension of my law practice. My way of reaching a bigger jury than I could ever find in a courtroom.

As a child in Manhattan, the library was my favorite refuge, a truly magical place, whose open doors opened many doors for me. I attended a high school on Long Island whose name will be recognized by every librarian: Island Trees High School. For those of you not familiar with the reference, the school board removed certain books it found “offensive” from the school libraries. The case went to the United States Supreme Court, which ruled that, “The ... right to receive information and ideas ... is an inherent corollary of the rights of free speech and press that are explicitly guaranteed by the Constitution.”

I was proud of our country for that decision. I do not believe libraries have a more fervent supporter than me, but my support is not robotic and my conduct will not be dictated by slogans.

Before I explain my position on public libraries and the Internet, let me tell you some of the things I have learned about predatory pedophiles. I am careful not to call such individuals simply “pedophiles” because pedophilia is a state of mind, not conduct. To “feel the feelings” may be “sick.” But to act on those feelings ... that is evil.

Why do I call it “evil?” Because it is neither the product of ignorance nor a mental illness—it is a choice. If everyone acted on his or her feelings, I would be doing a life sentence every single day just getting to work on the subway. I mean, it is something we are allowed to feel whenever we want.

Listen to this statement, which refers to an article entitled "Pedophiles Need Treatment, Not Publicity," that I am going to read. This is a typical statement:

This [article] would at first seem to be an understanding article, but it is even more dangerous than raving pedokillers. Man, we are not sick—no matter how badly this fact shatters your view of the world. No sickness, no treatment, no involuntary confinement to asylums.

Where did I find this proclamation? On the website of the International Pedophile Liberation Front. They know themselves well. They do not believe for a minute they are sick. My name is actually found within the section called their “Enemies List.”

I am quite proud to be on that list, although I am not at the ranking that I think I deserve. But, you know, despite our best efforts, they continue to keep me in sort of the second tier and this is what they say about me:

This guy is defined as a “crusader” against the exploitation of children. He is not particularly anti-sex, and some of his arguments are comparatively sound, although it’s Only Propaganda, as usual.

Not only would I oppose any attempt to censor their right of free speech, I agree with them on both counts—they are not “sick” and they do not require “treatment.” And I certainly cannot quarrel with their listing me as an enemy. Nothing they said even rises to a dispute.

If you go to the library and look up the definition of “pedophilia,” you will see it means “lover of children.” Well, here is where you have a problem because the problem with speech is the definition

of it. So a predatory pedophile's love of children is your love for a good steak. It is something for your gratification, and then disposed of one way or another. It is not an interactive thing. Chronic repetition of the same crime does not entitle one to call his conduct a mental illness. Just because a child molester repeats his or her crimes over and over and over again does not make those acts pedophilia. Trust me. If I represented a guy who stuck up a dozen 7-Elevens, one after the other, I would not tell the jury he suffered from "armed robber-ia" because I would be laughed at. Right?

But we buy it because we want to. We really desperately want to believe people who prey on children are sick, and we really want to believe we can treat them. We really want to believe we can cure them. As a result, they laugh at us and go about their business. They believe the only thing wrong with their conduct is society's outmoded and Jurassic morals. They lobby for the elimination of the age of consent laws. Their position is that they are child advocates. The position is that they are lobbying for a child's right to have sex with them. I do not dispute the right for them to call themselves child advocates. That is speech.

But I want to tell you that every child molester has this in common: Every one; he or she, is a sociopath. That means, a profound absence of empathy. They feel only their own pain, they respond only to their own needs, and their concern is strictly and solely for themselves. Unencumbered by morals or ethics, you can travel much faster.

And they have something else—they have absolute hyper-focus. One of the reasons they are the most difficult to deal with is that they concentrate on their work. They dream of molesting children, and they practice it while they are awake. There is nothing else they do; camouflage is their major tactic.

Please do not be seduced by the idea that "pedophilia" is just another "addiction." Here is where it varies. Pick a problem. You are a narcotics addict, an alcoholic, a compulsive over-eater, or anorexic. You are obsessive/compulsive; the type of person that taps the table 12 times before getting up. The exact type of addiction doesn't matter. There will be groups of people with your same affliction who have battled it successfully, or are in the process of battling it, and who want to help you overcome your fight.

So why is it that all the "pedophile treatment" programs are occupied only by those who are court-ordered to attend? Why is it that there are no walk-ins, no individuals seeking treatment on their own? And why is it that the only time you hear a child molester express "remorse" is when he is facing a sentencing court or a parole board? No one has ever had anybody wake up and say, "I hate my behavior. I hate what it is doing to other people, to my family, to my friends. I feel contempt for myself." None. The programs are full, but they are full of court referrals. They are full of the 'get-out-of-jail-free' cards that are traditionally handed out to child molesters, especially interfamilial child molesters on the grounds that they are sick.

And if "pedophilia" is a "disease," where is the cure? Recidivism rates of predatory pedophiles are frightening. And when one considers that "recidivism" is only for those caught and convicted and that the average child molester has committed many dozen sexual assaults before he is first captured, that fear turns to terror. Where do those figures come from? From the offenders themselves, in prison—self-reporting—and so we can assume, if anything, they are minimized.

What is the significance of these statistics? What does it matter? It emphasizes their commitment to what they do. Do you know what the pedophile organizations—and there are many of them—call a child molester who says, even to a parole board, "I am not going to do this anymore. I have changed. I hate my conduct?" Do you know what they call him? A traitor. They see themselves as an oppressed political minority.

Now, remember, we live in a country where I will do more time in prison for the cocaine I could put in my breast pocket than the semi-trailer full of child pornography. And part of that defense is all about speech.

I come before you as a man with two professions, both of which hold reading and learning as vital to their existence.

But as much as I revere the public libraries—I truly do—I want to tell you that these indiscriminate cries of “Censorship!” have become the new McCarthyism. Merely evoking that talismanic label guarantees resistance. And libraries will always be at the forefront of that resistance.

But before we kneejerk ourselves into collaboration with pedophiles, maybe we should define “speech” operationally, not as an abstract. Child pornography is not speech. Period. It is a photograph of a crime. It requires a victim for its production. It cannot be produced without violating a child. It is, per se, contraband and not within the orbit of First Amendment protection.

Definitions are key, as all words are not “speech” as defined by the Constitution. If you get a letter that says, “Leave \$100,000 in a paper bag in the bus station or you will never see your child alive again,” that is not speech, even though it is written. It is extortion. It is a crime.

If we are going to call a kidnapper’s ransom note “speech,” we may as well call a thug’s mugging “performance art.” You are going to end up defining everything to placate a group of people who are not worthy of your protection. I am not talking about child molesters. I am talking about people who just knee-jerk the words “free speech” as though it were some icon to be worshipped. That is fine with me if it actually is the speech that the Constitution contemplates.

I once gave a speech in Sweden. Sweden is sort of worshipped by child advocates because corporal punishment of children is banned in that country. But they do not ban child pornography because you cannot make it; that is illegal. You cannot sell it; that is illegal. But to possess it, well, that is the people's right to privacy. So, I was in a debate and again there was, sloganistically, talk about their “right to privacy.” I asked them if I could have a nuclear weapon in my house. They said, “No, of course not.” I asked, “Why? I have just as much privacy if it is in my own house. That is your argument!” That is the danger of this whole discussion about the Internet—it lends itself to sophistry.

Why is kiddie porn on the Internet? For the same reason it exists anyplace else. Do not make a mistake about what it is really there for. First, kiddie porn tells the child molester viewing it that he or she is not a freak, not alone in his degeneracy. He has comrades, supporters, and, most importantly, others who are both a potential source and recipient of the same material. Second, kiddie porn is used to desensitize potential victims. It is no secret that children are highly susceptible to peer influence. If there are pictures of other children engaging in these activities, it lowers the threshold. For every child, of course not. For the vulnerable child, very possibly. And the predatory pedophile is a hunter. He hunts the way the top food chain predators do. If a lion sees a whole herd of antelopes, what does a lion do? Does he charge the herd? Of course not! The lion deliberately urinates on the ground. When the antelopes get the very powerful smell, they run. The lion watches to see which antelope is quicker and which antelope doesn't run so fast. Then, when the herd reassembles, the lion knows just where to go.

That is the same way predatory pedophiles hunt. They send out their signals, and they wait for the response. Most child sex rings begin with the exchange of trolls. The validation they use among themselves is proof that they have control of a child, and the pictures are proof of that.

But the Internet has a third special use. It is a way to “test market” the product. There are tons of places you can go on the Internet and see samples of child pornography. If you want to see more, if you want to see more in depth, if you want video, if you want audio, then you have to pay. But rather than a secretly placed ad in an underground publication, the Internet does permit clearly advertising of this material.

But you know what? None of this is the big threat to vulnerable children. You know what the greatest threat to vulnerable children is? It is the very real potential for enticement. Child pornography has always existed. Predatory pedophiles have always lurked outside playgrounds and inside organizations. But the Internet permits, in its interactive form, access to children that would not be available to them otherwise.

Let me read you something. The process has been described as follows: “It begins with fantasy, moves to gratification through pornography, then voyeurism, and finally to contact.” The Internet is a superhighway down the path of that perverse pattern, giving child sexual predators instant access to potential victims and anonymity until the face-to-face meeting can be arranged.

But, unlike those who confuse cynicism with intellect, I believe the public libraries can absolutely protect children without, in any way, trampling on free speech or the First Amendment—if we make it an exercise in problem-solving, not the exchange of slogans.

We have to stop using immaturity as a two-edged sword. We do not let children vote or sign contracts because they are not mature enough to make informed decisions in their own self-interest. Must we be told to leave them alone when it comes to judging whether an online stranger is really who he claims to be? It is easy enough to say that this is the parent’s responsibility. Well, as a parent, I can control (at least to some extent) what my child sees on our home computer. But if the library, in effect, removes the restrictions that I have put in place, must I then bar my child from the library to protect him?

Listen carefully now. I am not talking about surfing the web. I am talking about communication. I am talking about chat rooms. I am talking about instant messages. That is what I am talking about.

If the library removes those restrictions, my parental authority is meaningless. And I am not talking about my right to be a parent. I am talking about my obligation to protect. The free-speech McCarthyites tell us, the Internet is neutral; it is a medium, not a message. And we wouldn’t want to protect our children from knowledge, now would we?

Sure, the Internet itself is neutral. It is a piece of technology, a tool. It acquires significance not by what it is, but how it is used.

So does a gun.

This is a classic example of sloganeering—especially the kind driven by a belief-system rather than logic can cloud even the most vital issues. Because, in truth, any NRA member who advocated that children be allowed to play with guns, unsupervised, would find himself alone, shunned by his fellow gun owners as either irresponsible or insane. Even those of us who hotly debate gun control have enough common sense to join forces on one critical point—you do not leave deadly weapons in the hands of children unsupervised.

Now, for the predatory pedophile, accessing a child via the Internet is a lot easier and a lot safer than lurking around a playground. I would no more allow a young child unsupervised access to live “chat” on the Internet than I would allow him to play with my .357 magnum.

Does that make me a censor? I guess it depends on your definition. But the actual definition, not the pedophile surfing definition, is that it does not.

Does that mean if we restrict access to live Internet “chat” today, we will be restricting access to books tomorrow? Beware of that sort of “logical extension” argument so beloved by manipulators. NAMBLA, the infamous “North American Man-Boy Love Association,” for example, presents itself as a “gay” organization, claiming their desire to have sex with male children places them on the extreme end of a homosexual continuum. Then they use the “First they came for the Jews” slogan to frighten gays into supporting them in the belief that, if they do not, they will be next. Here is NAMBLA’s position in their own words:

Our movement today stresses the liberation of young people. Freedom is indivisible. The liberation of children, boy-lovers, and homosexuals in general, can occur only as complementary facets of the same dream.

I would not dispute NAMBLA's right to call them homosexual or even child advocates. I assume they would not dispute my First Amendment expression of opinion when I say they are no more “homosexual” than a male who has sex with a 5-year-old girl is “heterosexual.” They are child molesters. I can say that.

Here is my question for you: “Could a 9-year-old kid come into a library and check out an R-rated film? Would you let him do it?” If you say, “No,” are you censors? If you are going to provide interactivity to children over the Internet (I don’t care if you call it chat, Instant Messages, or e-mail communication), how come permission from a parent is not required? Indeed, while I am opposed to “filters”—which I believe to be an impotent remedy—I see no constitutional right to “chat” provided by public funds.

As a research tool, I think the Internet has much to offer. But “chat” is not research. And while it is most certainly a form of “speech,” the enticement of children for the sexual gratification of an adult is not a protected form of speech.

To be a predatory pedophile is to be a camouflage expert. For every child molester who jumps out of a van wearing a ski mask, there are hundreds of thousands who go to where the prey are. And, like any predator, they go where there is a plentiful supply of prey. The Internet is their ultimate stalking range.

Parents are told: Monitor your home computer, make sure your child is not vulnerable to predators; take responsibility. But it goes without saying that when my child is visiting the library without me, that same computer is now “open.” Would requiring each underage user who wants to go online to show a permission slip from his or parents be “censorship?” Would marking certain library computers as “adults only” be censorship?

On what “free speech” grounds is interactive cyber-communication guaranteed by public funds or the Constitution? Anyone claiming that the failure of the public library system to offer free telephone service amounts to “censorship” would be dismissed as a loon. But the very word “Internet” has become a slogan all by itself, so zealously guarded by some that any restriction on its use, not on its contents—listen carefully, not on its contents, on its use—is called “censorship.”

It is time to stop playing with vocabulary and ask the blunt questions. Here is one: Are you saying to the American people that if they allow their children access to the library, then they given their implicit consent for pedophiles to have access to them? I don’t think so. And I do not think that reasonable preventive measures are “censorship.”

The power to name things is the power to control people. All of us here probably, this is my guess, agree that censorship is wrong. But if we allow zealots or those with a covert agenda to define “censorship,” it will not be free speech we are encouraging and protecting. It will be child molesters.

Believe it or not, these remarks were not intended as a filibuster. I came here to be a resource, and I am certain I would be more of a resource if I answered your questions instead of expounding, so ... Thank you for your attention.

Questions and Answers

CHAIRPERSON SIMON: Thank you, Andrew Vachss. I want to applaud you because I think that we are seldom privileged to hear such an explanation from someone who knows what he is talking about. I am sure you have provoked some ideas for further discussion.

Are there questions from the Commission?

MR. LUCCHINO: My name is Frank Lucchino. I am a trustee of a large urban public library, and we are confronted with this issue every day. Do I understand that you are suggesting that there be certain computers that are not available for interactive use in the children's sections and other sections of the library? We have 1300 workstations in our county system, so there are many of them to control.

MR. VACHSS: I think that it is actually very easy to control them, though. The only ones I want controlled would be those that permit interactivity. You would have to ask the librarian to let you on it.

MR. LUCCHINO: So you are suggesting that we have two sets of computers; some with interactivity and some without?

MR. VACHSS: Correct.

MR. LUCCHINO: At the end of your statement you said you were opposed to filters.

MR. VACHSS: Yes.

MR. LUCCHINO: Is that because you think they do not work, or because you think filters, if they do work, are bad?

MR. VACHSS: I think what happens with filters is that you get caught by the sloganeers who say, “If you filter out child pornography using the wrong search words, kids will not be able to get sex information.” They will have that kind of argument against it. I do not believe that you can stop children—I am being very blunt with you—from seeing child pornography. It is just available in too many places. I think trying to filter it out is technologically impossible.

I also think that it is easy to defeat any filter; it is just a question of software. Look, sociopath is not defined to child molesters. Take technology: the global satellite positioning stuff? Where do you think that came from? From the military? No, it came from a bunch of whiz kids in the Silicon Valley. Who did they develop it for? For drug dealers who wanted to know, with pinpoint accuracy, where the shipments were out in the ocean. In hours, software manufacturers can come up with a defeat for any filter you develop; it is just futile. I think the only way to fight it is to prevent the live access and enticement. A picture is not going to turn a child into a victim. It will shock and it will disgust; it will do all those things. There are two ways to fight child pornography: (1) raise the stakes for trafficking

in it; and (2) define it as “conduct,” not “speech.” I do not think a filter is actually going to protect children.

MR. LUCCHINO: The complaint we receive 100 percent of the time is that young people either are able to have access to, or observe others having access to, pictures of nude people of the opposite sex.

MR. VACHSS: Sure.

MR. LUCCHINO: I have never had a complaint that my child has gone to the library and gotten in a chat room. So what I kind of read into that is that people are not aware of what you are saying.

MR. VACHSS: They are not.

MR. LUCCHINO: Frankly, as a trustee, I was not aware that this is where the issue is, because we have never had a complaint, “Gosh, you let my child on a chat room in the library, and I do not permit that.” The complaint is, “My child saw a nude woman or some sex act on a computer.”

MR. VACHSS: Yes. The child saw what he could see in a magazine that he could also buy in the store.

MR. LUCCHINO: Well, they would say that the store has to pay for it. At the library, the access is free.

MR. VACHSS: Yes, sure. And there is no such thing as shoplifting. But, in reality, the reason you do not hear complaints about interactivity is that the victims do not complain until it is very late. Are you familiar with the horrible case in New Jersey?

MR. LUCCHINO: I am not.

MR. VACHSS: Very simply, a young man was chat-accessed by a predatory pedophile. Eventually he was molested by this previously convicted child molester many, many times. Eventually the child went to his parents and police. What the police decided to do was to turn the kid into an informant. They provided him with all kinds of sophisticated equipment and let him continue with his chat. That same 14-year-old one day killed a little boy that came to his door selling candy. He is awaiting trial right now. He overdosed on being used by everybody.

Victims who are actually accessed do not report quickly. They report the crime long after the damage is done, if at all. But those kids who are simply shocked by a picture, they will tell you right away.

MR. LUCCHINO: Is the technology available for us to stop interactivity in a library?

MR. VACHSS: Sure.

MR. LUCCHINO: In the children's section?

MR. VACHSS: You can make any computer incapable of engaging in certain conduct. That is not filtering. But the problem with filtering is that you search for a certain word. Well, you can code words within your site and hide them; it is a marketing tool. For instance, say I am looking for “gorgeous blondes.” I type in those words, and I might see a picture of a BMW because that is the way they have coded their website. This is why filters are not going to be effective! I would be perfectly happy to be able to say, “We have got stuff in effect; if you type in ‘nude women,’ you will be blocked access.”

I once met with a group of kids and their parents in Seattle. They were very concerned about this issue. In the middle of the conversation I asked, “Alright, kids, how many of you use America Online?” Most of them answered, “Yes.” I said, “How many of you have parental controls on your computer?” And they all said, “Yes.” I said, “How many of you know how to get past it?” And they all said, “Yes.” You want to have free “speech.” You do understand that some of the speech is going to be how to build a bomb; some of the “speech” is going to be how to defeat parental lockouts on computers.

MR. ABRAMSON: I am from a small urban library, and we are about to install our fifth Internet terminal. We have the same experience in terms of complaints. But we have never had a complaint about a chat room. You commented on the question that you raised earlier for me—your position on filters. I mean, you were telling me that you cannot imagine a commercially-available filter that did not have some kind of human interacting with it that would work.

MR. VACHSS: No. I am not saying that. Those are entirely separate. I am saying filtering is a piece of software designed to stop something. Countermeasures will be in effect within days of you putting it in. Interactivity has nothing to do with filters. The ability of an online system to go interactive is unconnected to filter.

MR. ABRAMSON: Okay. But that is why you are insisting on the interactivity because, again, you are saying that you are not able to imagine a filtering system that would do away with your suggestion to eliminate interactivity in a library setting.

MR. VACHSS: I think we are just getting confused with words. If you have a piece of software that will block interactivity, I do not consider that a filter because a filter, by definition, lets some things through and not others. I am saying, “No. No. Zero.”

MS. GOULD: I would like to follow up on Mr. Abramson’s question. Is there software available so that computers that allow surfing on the network can actually block chat rooms?

MR. VACHSS: Exactly.

MS. GOULD: You then would feel that would be an appropriate defense?

MR. VACHSS: You are being attacked on two fronts, okay? On the viewing of pictures front, the ability of the enemy to inflict damage is this compared to this on interactive front. I think it is morally wrong and an abdication of responsibility for public libraries to allow interactive communication of children with strangers. They can be nothing else but strangers. And the crimes that have taken place—and I defy anyone; get your FBI guy here; there can be no argument about it—regarding predatory pedophiles accessing children has not been through them viewing a picture. It has been through enticement and interactivity. It is not a filter that I want. It is 100 percent ban for children. Maybe I have been too equivocal.

CHAIRPERSON SIMON: I want to thank you again, Andrew Vachss, for starting this discussion today in a remarkable fashion. We will have a two-minute break and reassemble in a slightly different format for the first panel.

4. Panel 1: Larry Maxwell, U.S. Postal Service, and Kevin Higgins, Office of the Nevada Attorney General

CHAIRPERSON SIMON: Would Mr. Maxwell and Mr. Higgins please come forward. The panel this morning is short because we have been advised that the Federal Bureau of Investigation is having an all-day meeting and that means that Jack Boyle will be sending his remarks to the Commission as part of the record.

This morning we have the honor to present the representative from the U.S. Postal Service, Postal Inspector Larry Maxwell. Will you please proceed, Mr. Maxwell.

Testimony of Larry Maxwell

MR. MAXWELL: Good morning everyone. I thank the Commission for inviting the U.S. Postal Service. It is a real pleasure to be here, and I commend the Commission for focusing attention on this very important issue.

This hearing is extremely important to us. It is because mail touches every home in America that we feel we have a direct obligation. Not only do we enforce the laws involving mail protection and the users, but we receive mail as well. So, the NCLIS and the Postal Service are in the same shoe. There are non-mail issues such as, for instance, mail bombs. The current stories in the paper, such as the alleged anthrax mailings, are issues of great concern, especially in the last part of this century.

For those of you who do not know about the Inspection Service, we are only about 2100 strong, covering Maine to Guam. We have expanded internationally, as has the Postal Service. We are stretched thin along the way, and we have to learn to work smarter. We have been around a long time, so that should give us ample opportunity to get smarter. We have been around since the beginning of the Republic. We argue with our friends from Customs as to who is the oldest law enforcement agency in America. Since there is no one from Customs here today, I will claim that honor.

What I would like to share with you today is our experience involving the Internet. I am an Inspector in Charge, which other agencies call "Agent in Charge for Mail Fraud, Child Exploitation, and Asset Forfeiture." That sounds like a mouthful and it is. But in the mail fraud and child exploitation areas we see some direct relationships, and, oftentimes, law enforcement becomes involved. We are measured upon our success based upon the number of arrests we make, as well as identification, searches and traditional law enforcement measures.

Our new leader, Chief Inspector Ken Hunter, sends his regards. Mr. Hunter has taken a new vision, and his view is more from, if we make an arrest it is a failure because we have a victim. That is particularly true, not only in mail fraud but in the child exploitation area. Tragically, it is true. I am sorry that I missed the earlier discussion this morning. I am sure that throughout this hearing you will hear some very sad stories. I imagine you have heard many of them before, but I would like to share one or two examples with you today. Our concern is with stopping it.

I was particularly interested in the earlier comments about freedom of speech. In the mail service, there is a thing we refer to as 'Sanctity of the Seal.' We protect your right for speech with every letter that you send. Now, with cyberspace and the Internet, we are seeing a whole new world of opportunities for legitimate and illegitimate businesses for consumers and for criminals. We have to learn to apply the same rules that we have in the non-cyberworld to the cyberworld.

In law enforcement, we are focusing our resources on those who have abilities in computers. As a result, we now have a cadre of people working with computers. They are becoming savvy with the

new, emerging laws concerning the Internet. Generally, for lay people that are not involved in law enforcement, what is true in the outside world is true on the Internet. If we have a reason to, perhaps, record or transcribe something, we have to have the same authorizations as we would in the real world. We are faced with some tight restrictions. However, we do have undercover operations, and we have other types of surveillance we can conduct. We have a lot of intelligence out there.

As far as trends go, the Internet is vastly growing; I do not have to tell you that. I forget some of the statistics that I have read recently. But, it is phenomenal when you compare how long it took radio to reach a certain level of audience acceptance; television was even shorter. With the Internet, it was just like a day. I mean, it has reached so many millions of people and the potential is so much greater.

What we are seeing in terms of mail—you would think the Internet would replace a lot of postal services—is that it is generating even more services. Many times people order over the Internet, and it is shipped by mail or Federal Express. The same is true in mail fraud schemes. What I am seeing now is a tendency to advertise or solicit on the Internet, and there will be a mailing. That mailing is all I need for it to become a mail fraud violation which we can then investigate and prosecute.

It is the same with child exploitation. I heard the mention of “interaction.” It is so important for those of you involved in child exploitation cases to understand “interaction.”

Since the Child Protection Act was enacted in 1984, the inspectors have developed expertise in corresponding. In a way, we like to call ourselves ‘pen pals,’ in a sort of ‘dark-sided way’ with the criminal element. We have become very adapt at luring them into thinking we are a participant in an otherwise very nasty crime, and we have had good success. In fact, we have had great success in that since 1984 we have had about 3000 cases. Of those 3000 cases, we have had 2700 convictions. I think that puts a good dent in it.

It is amazing when you think of the Internet and all of the potentials. Not long ago, the Chief asked me to take him around Washington to explore the thinking of the FBI, the Department of Justice, the National Center for Missing and Exploited Children, the Children's Advocacy Center in Huntsville, as well as a number of other places. We asked them, “What is the universe on this? How big is it? What do we need to fear?” No one could answer the questions. There were no answers as to how big the danger or the danger it poses to society. Then one young FBI agent said one very simple word. She said it is, “Infinite.” To me that answers the questions. We do not know what is out there. The only way we will measure it, unfortunately, is through the victims we see. So we are finding that the best course of action is through prevention, education, awareness and through events such as this which bring the issues to a level of awareness and to a level where people can deal with the issues. To a level where people can actually see what it is they have to consider before they can make intelligent choices. In the mail fraud area, I often say that every time there is a mail fraud victim, there is a choice. They made a choice to participate. If they had chosen wisely, they would not have participated in a fraud scheme.

In the area of exploitation, you often have innocent people that, perhaps, cannot make that choice. So we have to help them, and we have to help them in every possible way we can. In the meantime, we have to keep looking to law enforcement and, basically, scan what is out there, what that universe is, and what that ‘infinite’ universe really consists of.

Over the last two years since we have been tracking Internet crimes involving child exploitation, we have had 400 cases. Of the 400 cases, 42 percent involved an initiation or contact by the Internet. So that is fairly significant in any terms—almost half. And this is early on. I mean, there are many people getting involved in this. So, those are considerations we have.

As far as the future of the Internet, it looks like it is balanced and growing. In terms of the Postal Service, we can pledge that we will keep our expertise up to the degree we must to compete with our adversaries. I would definitely say that if we can reach people, if we can prevent the crimes from happening through education and awareness, that is the best step.

Thank you for inviting me. I will answer any questions.

Questions and Answers

CHAIRPERSON SIMON: Thank you, Mr. Maxwell. I will now offer the opportunity for questions to our Commissioners. Mr. Abramson.

MR. ABRAMSON: I am not sure I understood you correctly. Did you suggest that if someone on the Internet solicits someone to use the U. S. Postal Service mail that that opens the door for you? Or, does someone have to use the U.S. mail?

MR. MAXWELL: Generally, we become involved if the mail is actually used. Now, I will qualify that statement. Sometimes you do not know if the mails are used, but we are not going to back off. If one of our agents is involved in a correspondence, or interaction, with someone, and it involves a case, we often work on task forces or we have associates in the Bureau and Customs, the other two primary law enforcement agencies working in this area. We will work it through, and we will find a way. There are times when our people go out on the search and make an arrest. We may not claim that as one of the statistics for our agency, but if we have the expertise to bring to it, we work it. But, yes, our jurisdiction is limited to where there is an actual mailing.

DR. CHALLINOR: From 1948 to 1952, I worked in the children's court in New York City so I know exactly what you are talking about. And I know what Mr. Vachss is talking about. I would like to emphasize how long the time is between when the crime takes place and when the child tells someone. This, I do not think, is well understood. The crime has gone on over and over and over again before the child tells someone. Would you agree with that?

MR. MAXWELL: Absolutely. In fact, the time element and, how can I say this, the personal involvement by the agent working these cases is very controversial. In my agency and in other agencies, how long one agent can stay in the assignment because of the involvement is very controversial. You become very emotional interacting with these people, and you get very involved with the victims because over the course of time you get to know them. If you read, as I have read, many of the letters that our people write and the responses, you are actually sharing a lot of intimacies. You have to get inside someone. So, yes, the time is very lengthy.

My concern with that emotional factor is that it takes years to get someone to the point where they can actually become an effective agent, where they can correspond and communicate with the element that we want to attract. But when it comes to that point in time—maybe three years—it may be time to move them out of the assignment, depending on management's philosophy. We are at different odds on this issue. I am a little more open; my view is that it depends on the individual. I have seen people in the assignment 15 years, and they are outstanding and rock-solid as far as their philosophy on life. I do not have a problem with leaving them in the assignment.

MS. GOULD: Just about every community in the United States has a public library and a library in their schools. And just about every community in the United States has a post office. What would you suggest in terms of programs that would raise awareness of these problems? For instance, how could the local Postmaster interact with the public library of the school district to develop an educational or awareness program because we have privacy issues where children surfing the Internet could come

across a site asking inappropriate questions that could then be used for marketing issues or some kind of a scam?

MR. MAXWELL: What I would suggest is similar to what we do in the area of mail fraud, mail bomb or narcotics. It is illegal to mail narcotics or the proceeds from drugs. We have posters in some of the larger lobbies in some of the major cities and we have television monitors showing educational videos. But, most importantly, I offer to you that inspectors do stand-up talks, as we call them, where they go out and chat with the community. Often, the most demand seems to be for mail fraud; that seems to be the sexy topic of the day. But this is a very important one. I think that would be a good area for us to explore as far as having inspectors involved in child exploitation assignments come out and, perhaps, share with other enforcement officers and community leaders some of the issues that you are talking about today. That might be helpful.

MR. LUCCHINO: Mr. Maxwell, with regard to your experiences in the Postal Inspection Service and the public library, have you had any issues where the venue for this contact was that the chat took place in the public library?

MR. MAXWELL: It is interesting that you would ask that question. I was looking through the portfolio of the cases that we have been tracking over the last two years, and I have not seen any indication yet. But it does fascinate me because of the many facilities around the country for this opportunity. My first guess is that most people involved in this type of activity would probably want to do it in the privacy of their home. But perhaps the victim-child, which you refer to, is more likely to go the library for privacy—to get away from parents. That could well be the case. In fact, you have now raised my awareness to this situation. I will look into it because this can be helpful information for the future. If that is true, as you suggested earlier, maybe there is something we can do to work with the libraries.

MR. LUCCHINO: On this subject the librarians may be way ahead of those of us who are library trustees. Martha Gould tells me that the Washoe Public Library in Nevada, where she was the director, does not permit chat. It may well be that my own library does not permit chat, but I am not aware of that. But it sounds like chat rooms can be blocked. The issues that we continue to confront are the explicit photos which appear on the screen that upset the parents. It sounds like, from the previous speaker at least, that you are being misled if that is what is concerning you. That, in fact, your concerns should be the chat that occurs—not so much the photos.

MR. MAXWELL: I would agree with you. Again, this is my personal and professional opinion. From what we have seen, interaction is the key to these cases. The photos do provide some stimulus and, obviously, there is a curiosity on the part of children. We still have on the books what we call, “adult obscenity.” And some states take big exception to “adult pornography,” as we used to call it.

Basically, the Supreme Court has spoken that it is community standards; that is our focus. We focus on child exploitation. If they are depicting photographs of children in a pornographic way, that is where we draw the line and step in. Anything beyond that we, as inspectors, are prohibited from unless there are community standards. So the interactivity is most important. We do not become as concerned with regular “pornographic” photographs because they are not the key problem. Again, this is based on my experience.

MR. LUCCHINO: I have another question. What happens if the local law enforcement in the cyberspace area is not as sophisticated as other branches. If we had this issue in Pittsburgh (where I am from), if we discovered that child pornography was being displayed or that inappropriate chat was occurring that was not blocked for some reason and we thought a crime was occurring in connection

with predatory pedophiles, would the Postal Service in Pittsburgh be the place to turn? Is there a cause for postal inspectors to get involved just because it occurred on the Internet?

MR. MAXWELL: Absolutely. What I would suggest—for everyone interested in this room—is that if you have a suspicion or a problem in one of your libraries, please call us: call the local Postal Inspector; call the local FBI agent; or call the Customs Service agent. These people can best advise you as to the capabilities of local law enforcement. Again, local law enforcement—my father was a New York State trooper so I come from a long line of law enforcement people—provide an immediate function and immediate relief. It is a different level of, how can I say it, development in each of our agencies at this point. We in the Inspection Service feel we are not yet to the point where we want to be. I have chaired a few groups where the focus is on Internet crimes, fraud and child pornography. But we have so much to learn.

The next generation of law enforcement officers will be much more savvy about computers. The new officers have a much greater aptitude for computers just from using the computers at school, libraries or home. So the future looks brighter.

For the immediate problems, please call us. We will definitely find whatever expertise is necessary because we are very concerned. You cannot wait a long time because every day you lose is one more day the child is exposed to something unhealthy. The quicker we can act, the better.

MR. ANDERSON: I have quick statement; just for clarity. If I were to order child pornography from a unit, I am sure I would violate a federal law and would get arrested for doing that. I hope that you would define the difference between two adults in a picture of a sexual act on the screen and a child in a sexual act. One is evidence of a felony prosecutable in every one of our states and the other is not. It is important to define that difference. You use the words interchangeably, and they are not interchangeable. The picture of a child in a sex act is a felony, and we have responsibility as adults to respond to that.

MR. MAXWELL: Community standards that apply to adults. That is not an issue of what we are dealing with in criminality.

CHAIRPERSON SIMON: Thank you, Mr. Maxwell. In an effort to keep on time, I ask you to withhold further questions.

We will now hear from Kevin Higgins from the Office of the Attorney General, State of Nevada. We are pleased to welcome you.

Testimony of Kevin Higgins

MR. HIGGINS: Thank you, Madam Chairperson and Members of the Commission. I may be in a unique position here today because I wear two hats. One as prosecutor with the State Attorney General's Office heading up our high-tech task force. We have actually done some proactive things to warn parents and children about safety on the Internet.

The other hat I wear, and wore, is as Chairman of the Board of Trustees in Washoe County when Mrs. Gould was the director of the library. Currently, I am the Chairman of the Partnership Library Committee, an interesting project I will talk about briefly.

Several years ago it became clear that we were not going to be able to afford to build lots of library branches in the Reno area. The funding was just not available. We knew school libraries sat there unused after 3:00 p.m. during the week, on weekends, and during the summer. We realized it was a

facility that could be used at little cost so we partnered with several school libraries under Mrs. Gould's direction. As a result, we now have seven partnership libraries for branches that we did not have to build. We have partnership libraries full of community public libraries, in high schools, grade schools, middle schools, all over the county. I currently chair the committee that serves as the advisory committee between the school district and the library system.

One thing I learned from this is that long before the Internet came about, public librarians and school librarians speak a very different language. We will not even talk about academic librarians; that is another whole issue. But in discussions on who was responsible for what, how to approach the children, and so forth, our committee thought we would be able to have one operating agreement for all of the libraries: these are the rules; this is how it will work. That proved not to be the case. It proved the only way to make this work was to have independent agreements and site-based decisions on each of the libraries. For instance, in Verdi, Nevada, a very rural community, I assumed the principal would want to wait for the public library hours until after school was out so the school kids would be gone and the parents and the other people in the community would have access to the library. That was not the case at all. It is such a small community, the principal knows everybody, and he is comfortable with the general public using the school/public library during school hours.

On the other hand, a high school library where I did not assume it was going to be a problem at all prefers to wait until an hour after school is out before allowing public access to the library. We have public librarians that serve there after hours and school librarians. Just getting that coordinated has required site-based decisions on all those issues, which kind of leads into what the approach has been on the Internet access policy.

Some of the materials I provided for the record² show that the school district and the library have very different approaches to Internet access. Our school district requires permanent filtered access at all times. There are letters that even the kindergartners have to sign—I am not sure that is legally binding as an attorney. The letters require the parent's signature, and it explains to them what the access is going to be and how it can be taken away. In fact, it can be taken away in the school system.

If you are found to be violating the policy, if you have managed to thwart the filtering system, or you are hacking the system, the first time, your privilege is taken away for a month. The second time, it is taken away for a semester. The third time, you lose all of your privileges to use the system.

I was discussing this with university librarians that had experienced a computer crime problem with students. I said, "Well, maybe if the students are abusing the system, they should not be allowed to use it." The academic librarians looked at me like I was nuts, and stated, "This is a university. We could not possibly treat our students that way." But that is another story.

Now, on the other hand, the Washoe County Library System has adopted a policy—a multi-part policy. If you are a parent, you have a choice. You can either say that your child cannot have any access to the Internet at all, or that your child can have access to the Internet only when you are present. As a subset of that, you can say that your child can have filtered or unfiltered-access to the Internet while you are there.

There are actually four options coded into the library card regarding access to the Internet. In combining that with the school district policy on filtered access, it was necessary to develop a matrix on who was in charge of enforcing what policy, during what hours, and on which equipment. And it

2. The materials submitted by Mr. Higgins begin on page 92 in Appendix A.

actually worked. The reason the partnership library committee works is because there are school librarians, public librarians, a principal, a member of the general public, and people from the library staff on it. We just figured it out. It was just a matter of deciding which equipment was being used by whom and which policy would apply. I will not bother to go through the matrix in detail.

But what happens is that at certain times of the day the school librarians have to apply the library policy on county equipment, and at certain times of the day the county librarians have to apply the school policy on the school equipment. We have had Internet access on these joint terminals, and we have put public access Internet terminals in three of the joint-use libraries in public schools so far. I was just discussing this with the Internet librarian last week. He said that since October, a total of 642 adults and 135 minors used the library's terminals. Of the 80 minors given permission by their parents to use these public access terminals, 36 of the parents specified 'no parent present and no filter is necessary.' Thirty-two parents specified, 'parent need not be present, but a filter is necessary.' Eight parents specified, 'parent must be present, and even if the parent is there, we want a filter turned on.' Four parents specified, 'parent must be present, no filter.'

It is interesting to see that at least half the parents are requesting filtering access. They are specifically told—in the limited time we have here today I will not go through it—that the parental permission slip says that the filtering is an inexact science at best, it is only a start, and that there is no guarantee. But since last April our library has not had a complaint about a student or a child looking at something they should not have been.

Our Internet policy requires several things. One is that the terminals be placed where the screen cannot be seen by other patrons. We do have glare filters installed that require that, basically, you have to sit directly in front of the screen in order to see it.

We engaged in long talks with the school principals about the joint-use libraries. In particular, the middle school principal said, "If I walk through the library and see fourteen little boys crowded around one terminal, I will know exactly what's going on." To solve that problem, the library system's terminals are not turned on during school hours. They are accessible after hours when it becomes a full-use library. We have accommodated the principals' worries and needs. And, so far, we have not had any complaints. But I do not know how long that will continue.

When I was with the library, we had complaints about Halloween books being witchcraft. We also had complaints that sex education books should not be located where children can get to them in the library. But, so far, we have not had complaints on this.

I will skip now to my other hat. To be very brief, a few years ago the Attorney General's Office was ignorant of high-technology crime issues. We did have one case dumped in our lap where someone had figured out how—we do not generally tell people this—to break into slot machines and fix them to win. When that case ended up in our office, it became clear that, in our State, there was not a prosecutor to prosecute these kind of high-technology crimes. There was, perhaps, one investigator that could and, certainly, there was not a judge that understood it. So the Nevada High-Technology Crime Task Force was started about a year ago, and I headed up the project. Our goal is to educate Nevada prosecutors, judges, and investigators so we can find and prosecute these crimes.

As a quick example: a recent Reno murder case. The department manager was dead, and the detectives noticed that the computer screensaver was on. The detective opened up the screen and there on display is an account about the person he was arguing with about the rent. The crime was easily solved. We train our investigators to know enough that if they walk into a crime scene and a computer is on, leave it on! If the computer is off, leave it off! Do not walk up and type DIR to get a

directory listing because even the simplest of computer hackers can fix the computer so that it formats the hard drive rather than running the directory list. The more sophisticated ones easily hide the evidence. We like to say, “Old crimes are being committed new ways.” These days most of the methadone producers are actually keeping track of their sales on spreadsheets. That is great evidence, if you can find it.

Proactively, our office has produced two things: One, “The Parent's Guide to the Challenges of the Internet,” copies of which I distributed within this room. I think that by now every school kid in Nevada has gotten one of these guides. Every library and every public school has copies; we have passed them out all over the country.

Even though a letter goes out from the school district stating, “If you want permission, please sign here,” many parents do not understand the idea of Internet access; they do not understand what that means. We warn them about what it can be. The form states, “No matter how good we are about the filtering system and how vigilant we are about watching what they do, they are going to be potentially exposed to inappropriate material and potentially open to exploitation by predators.” We very specifically say that ground rules need to be established on Internet use, both at home and in the public library. I think one of the best suggestions I have ever heard—and we have included it in this pamphlet—is that the home computer be placed in the living or dining room. Then if your child wants to surf the Internet while you are watching television or reading a book, that’s great. He is not hidden away in a back room surfing and looking at things he should not be looking at.

We also warn about chat rooms. As the father of a one-year-old daughter, I doubt I can see the point where my daughter will be allowed to use a chat room. We had a case in Nevada where a pedophile lured two young women from North Carolina to Sparks based upon meeting them in a chat room. They thought they had found—well, for whatever reason—they came and were obviously exploited.

The high-technology task force is modeled after a program in Sacramento, California. They have a horrendous videotape they can show you about this guy that brags about how good he is when pretending to be a 15-year-old boy on the Internet luring young women to Sacramento. He brags and is proud of the number of young women he has lured and taken advantage of. So proud, that he was convicted and sent away. These are some of the things we warn about in this brochure. The red flags, the use of use-net groups, and e-mail. And we try to be a little proactive about it.

Secondly, in another brochure, we have warned about the sort of things that businesses should be doing to guard themselves. There are about 40 tips. And, as I was telling the Attorney General the other day, about 20 of them we ignore in our office—the Attorney General's Office. Simple things like changing passwords. I cannot tell you how many government agencies I walk through and see someone’s password on a sticky note sitting on the computer screen. This is a real problem within our own office. We can talk about how easy it is to exploit other people's computers.

I guess the sum of my testimony would be, at least, that my experience is based on the fact that I do not work for a federal agency. I work for a small State Attorney General's Office. I am a trustee on what I consider a very fine library system; certainly, it is not by any means large compared to many on the East Coast.

I think what we have found is that making site-based decisions, having local control about these issues, and accommodating ourselves to the needs of the user, depends on where the user is. The library access in Verdi, Nevada, is very different from how we allow children to access Internet in Sparks, where I live. The policies have been developed to fit in conjunction with the parents,

principals, teachers, and librarians. And so far it has worked. I am sure, at some point, we will receive some complaints.

One of the middle school principals asked me, and it was a very good point, “If I walked into the Washoe County Library, could I order a pornographic videotape?” I said, “Obviously not.” She replied, “Then why is it that I can have access to other pornographic material?” Of course, the distinction is made about the library not having to pay for Internet access; they would have to choose to pay to add that videotape to their collection.

But Mr. Vachss’ comments are taken very well. We assume that by sending our children to the school or public library they are safe and they are not going to be exposed to anything they should not be exposed to. A lot of parents do not feel safe turning their children loose at the mall or letting them walk to the 7-Eleven Store, but they oftentimes feel safe letting them spend time in the public or school library by themselves. So we have taken a proactive stand, one that has worked for us in Nevada. I would be happy to answer any questions.

Questions and Answers

CHAIRPERSON SIMON: We thank you, Mr. Higgins. Obviously, Nevada is ahead of the curve on some of this. We have to give some credit to Martha Gould for that.

MR. HIGGINS: Most certainly.

CHAIRPERSON SIMON: Any questions?

MR. ABRAMSON: I have a question I would like for each of you to answer. Mr. Maxwell, to the extent it is reasonably possible within the next 30 days, could you supplement your testimony by any kind of indication about whether any of the cases that you have prosecuted look like they were initiated while the child was in the library?

MR. MAXWELL: I would be happy to.

MR. ABRAMSON: If it is in the file, fine. I have another question for each of you. I am wondering, since this is a new area in the federal case, are you line-item funded specifically for Internet technology investigations? Or does this come out of your hide somewhere else? Does the Attorney General in the State of Nevada have someone designated to handle these types of issues and funded. Either of you may go first.

MR. HIGGINS: Well, that would be me. Yes, we are asking for funding. Our session starts next February. Of course our approach is much broader than just this issue. We have put in money to fund the high-technology crime center—to hire some people who can do these investigations. Right now, because I have been somewhat heading this project and have expressed an interest, I get referrals all the time. I just do this in addition to my other current duties. That is our problem. We want to try to partner with the small local law enforcement. That was a great idea because they had the sources and the funding. In our case, the kicker is the equipment necessary to handle these prosecutions. We are going to ask our legislature and, hopefully, receive some funding.

MR. ABRAMSON: Mr. Maxwell, how about you?

MR. MAXWELL: As you know, the Postal Service is quasi government so we are not appropriated. We derive our income from the sale of postage stamps and mail deliveries. The Inspection Service was mandated by law to protect the Postal Service. As I mentioned earlier, we have 200 statutes that

we enforce. We get our budget from the Postal Service, roughly \$500 million, which covers the uniformed division, postal police, plus the 2100 inspectors. Of that universe, if you will, my little 'piece of the pie' is for fraud and pornography. I am also getting more and more involved in the computer end of it. I can tell you that we have established a Computer Crimes Unit. In fact, the person in charge is moving into his office today, although he has been around for six months now.

We are affiliated with the Department of Justice who has had, for sometime now, a Computer Crimes Unit. We also just assigned an inspector to the Instant Images Task Force in Calverton, Maryland. It is a cyberspace-type orientation of the FBI with two squads. We will have an inspector there, possibly two, bringing in the expertise of the communications end of it; how they interact with the people. We have increased our training. In fact, last year we held four classes across the country just on computer crimes. I have a sub-working group focusing on computer crimes.

MR. ABRAMSON: Thank you both.

DR. CHALLINOR: I have a question for both of you. What is your opinion of Mr. Vachss' suggestion that children be prohibited from using all interactive parts of cyberspace?

MR. HIGGINS: I think that it is an absolute need. I believe our library does that now and that the interactive part is turned off in Washoe County. If it is not, we should do it soon. I absolutely agree.

MR. MAXWELL: I am not a parent. But if I were a parent, I would prohibit my child from chat. That is my personal view. Professionally speaking, I think the evidence is clear that this type of crime is mostly exposed through the interaction, so I favor Mr. Vachss' suggestion.

CHAIRPERSON SIMON: Washoe County, would you like to say a word?

MS. GOULD: Always. In terms of interactivity, are we limiting that just to chat rooms? There are some very good sites that have been previewed, and libraries link to these sites on their terminals that are not open for surfing. I would hate to lose this type of interactivity. I think we need to define which types of interactivities are appropriate and which are inappropriate. I would hate to lose some of the interactivity with, for instance, the Library of Congress. On the other hand, chat rooms are perhaps inappropriate.

MR. LUCCHINO: Mr. Higgins, I was fascinated by the percentages that you quoted about parent selections. Could you review those again?

MR. HIGGINS: Certainly. Out of 80 children given Internet access of some sort, 36 parents said, "Parent need not be present, no filter needs be in place."

MR. LUCCHINO: So almost half?

MR. HIGGINS: Yes. Of course, I cannot say if those are 17-½-year-old high school students or parents that just do not understand the problem. Thirty-two parents said, "They need not be present, but a filter should be in place." The greatest majority said, "Parents not there at all." Eight parents said, "Parent should be there; filter should be on." Four parents said, "Parent should be there; no filter necessary."

CHAIRPERSON SIMON: The child is how old? Up to 18?

MR. HIGGINS: Up to 18.

MS. GOULD: Is this strictly for terminals allowing surfing on the Internet?

MR. HIGGINS: That is correct.

MS. GOULD: They are not the terminals that have the specific Internet sites that we have linked to the online catalog?

MR. HIGGINS: No. These are just accessible Internet terminals.

MR. ABRAMSON: I signed some of my own excuse slips when I went to school. Is there any suspicion that some of those students filled those forms out themselves?

MR. HIGGINS: I meant to mention this. When we first partnered with libraries, we required everyone to have a permission slip to get in. It was 5,000, 10,000 students. It was an enormous headache. We now require parents to indicate that they do not want to use the partnership library ahead of time. They now must have positive permission. As far as we know, these are all accurate signatures.

MR. LUCCHINO: As a trustee, I am really surprised that 36, almost half of the parents, said, "Show them whatever they want; I do not have to be there." Here we are with half of our audience saying one thing and the other half saying something else. This is separate talk, not chat rooms, about what they can see. This is what keeps making the news. I mean, on October 15, The New York Times did a piece in their circuit section about the Austin Public Library. The whole issue seems to be what you can see, not about chat. That is where, at least from a trustee's point of view, the battle seems to be engaged. And, here, half the parents of children under 18, say, "Show them whatever they want to see."

CHAIRPERSON SIMON: We are beginning to see another vision here of the huge problem. I am going to conclude this panel with thanks to Mr. Maxwell and Mr. Higgins. We appreciate your presence here this morning. We will now have a ten-minute break (instead of a 15-minute break) so we can keep on time. Thank you.

5. Panel 2: Toby Levin, Federal Trade Commission, and Deirdre Mulligan, Center for Democracy and Technology

CHAIRPERSON SIMON: We are ready to proceed with the second panel of our hearing. We will now hear from Toby Levin, an attorney for the Federal Trade Commission.

Testimony of Toby Levin

MS. LEVIN: Good morning. Thank you very much. My name is Toby Levin, and I am with the Federal Trade Commission (FTC).³ The Commission is an independent regulatory agency with law enforcement powers. I am here today presenting my own comments. I have to give the standard disclaimer that my comments are those of my own and not necessarily the views of the Commission or any individual Commissioner. Having said that, let me go ahead and give you a little bit of background of our role with regard to Internet privacy. The Commission's mandate is to enforce the Federal Trade Commission Act which prohibits deceptive or unfair practices in or affecting commerce, as well as unfair methods of competition.

3. The text of Ms. Levin's slide presentation begins on page 112 in Appendix A. A written statement from FTC Chairman Robert Pitofsky to the U.S. Senate on the protection of children's privacy on the world wide web begins on page 115.

Protection of children has long been an important area for the Commission and, historically, our focus has been on deceptive advertising directed to children but, most recently, we have been very involved with the issue of online privacy protection for children. The Commission has been concerned about protecting privacy in this new online medium which makes information collection easier than ever before. It is a new medium, but it raises familiar concerns about marketers' interaction with children and the important role of parents both to protect children from abuses and to help educate them about the marketplace.

We conducted a number of workshops in this area and in the course learned about survey evidence which indicates that parents have strong concerns about the information practices of commercial websites. In fact, the report of the Weston and Lou Harris survey found that 97 percent of parents, Internet parents, believe that websites should not collect information from their children and sell or rent it to others. Seventy-two percent objected to the collection of information, even if it was only used for internal purposes. When I refer to information in the course of my remarks, I am referring to identifiable information.

The FTC has addressed online privacy in several ways. I suggest you may want to go to our website—ftc.gov—which has a number of materials that might be of interest to you about privacy and our efforts. The Commission has held workshops over several years, and we have facilitated discussion among industry groups, privacy advocates, consumer groups and government to identify the key issues in this area and to work on solutions. We have encouraged self-regulation by industry leaders and associations to address this issue, and a number of trade groups have developed privacy guidelines for their members.

Most recently, in June 1998, FTC issued a report to Congress, *Privacy Online*, a copy of which is on the display table. If you would like to receive a copy, please see me later today. This report summarized the principles of fair information practices, notice, choice, access and security, assessed industries' existing self-regulatory efforts to provide these protections, and assessed the extent of online information collection and privacy protection on the web by conducting an extensive survey. The Commission staff surveyed over 1400 websites in six samples, and most importantly for this group, one sample of 212 children's websites.

We found that there was a very low number of sites posting privacy policies and providing consumers privacy protections. Our survey found, specifically with regard to children, that 89 percent of the sites in the sample collected personal information from children and many collected a number of different types of information. Children sites collect this information through registration pages, surveys, online contests, pen-pal programs, guest books and application forms. Most importantly, children can reveal their own personal information in the course of their activities in chat rooms, message boards, and by posting their own personal home pages.

In the survey, we found that of the children websites sampled, only 24 percent posted a privacy policy. Less than 10 percent provided any meaningful parental involvement, and only 1 percent provided prior parental consent.

As a result of our survey, the growing number of children using the Internet and the high level of parental concern about protecting their children's privacy, the Commission's report recommended that Congress enact legislation to protect children's privacy online. In July 1998, Senators Bryan and McCain introduced a Bill, S 2326, which was passed on October 21 and signed by the President to provide protection to children with regard to the collection of information on the Internet.

This Act, in general, provides privacy protection such as requiring parental notice, prior parental consent for collection of personal information, and, most particularly, in addressing the issue raised earlier today, where children engaging in commercial website chat activities would be required to get prior parental consent if those activities permit the child to disclose their own information.

The limitations of this law, which requires the FTC to implement regulations within a year, is that it does not address children's privacy over the age of 12, it does not address the distribution of adult material to children, and it does not address the information practices of nonprofit organizations. However, it does begin to address, I think, the overall issue of privacy on the Internet with regard to children. We would hope that other sites that perhaps do not fall under the legislation would see this new legislation as a model for privacy protections in the future. I would be happy to respond to any questions about the new Act and the FTC's role.

While the Act itself does not go into effect, at the earliest, until April 2000, in the interim the FTC has given guidance to websites with regard to our existing authority. Briefly, under our existing authority we believe that commercial websites must give parents notice if they are dealing with children 12 and under, with regard to information collection, and should obtain prior parental consent when they are going to disclose that information to third parties or make it publicly available.

Questions and Answers

MS. GOULD: I have a question about the process, or the procedure, for getting the parental consent. If you are doing everything over the Internet or via e-mail, how do you know it is the parent at the other end?

MS. LEVIN: We will be dealing in our rulemaking proceeding with the issue of verification of parental consent. However, this past summer we brought action against one major site. In that order, the site was given a number of mechanisms that they can use. Similarly, the new statute will allow for some flexibility. But, currently, the easiest way for a site to do this is to direct the child to print out a form which the parent is then asked to sign and return by mail or fax. Presumably, in the future we will be able to use electronic means with digital signatures. Some companies now have an 800 number a parent can call. None of the current non-technologically methods are foolproof, but we feel they can provide a reasonable level of parent verification.

MS. GOULD: But even if they print it out and mail it back to you, you still do not know that it's the parent's signature. You have to assume that.

MS. LEVIN: Right. And, I think, because of experience in schools, and as a parent myself, I know that younger children still tend to ask their parents for permission when given a form. While there may be some percentage of children that would falsify it, I think the majority would not. The website will have to determine, based on the form, whether that looks ostensibly like a parent's signature or not. Some sites are calling parents for verification, so I think we are going to be working out the implementation of these mechanisms. And, as I said, without some additional technology, it is not foolproof at this time.

MR. ABRAMSON: My understanding is that we are approaching 300 million websites worldwide, although most are in the United States. Even if the FTC were to have some kind of jurisdiction, we are not going to suggest, are we, that there is any of those kinds of protections for online privacy for children in areas outside of our borders?

MS. LEVIN: Our jurisdiction extends to commercial websites within the United States. We would not be able to require a foreign site to adopt these practices. However, we are now looking at the

jurisdictional issue to see if there is a pattern of U.S. consumers or children information being disclosed publicly in the United States. Those jurisdictional issues, I think, are still not clear. We do work very closely with Canada, cross-border countries, and, as part of the European Union, foreign countries at least have established a fairly high level of privacy protection. So, there may be a global impact beyond what this new Act will require.

MR. ABRAMSON: Which is also true with online gambling between here and the Caribbean, I suppose. There are a lot of things that are not going to be solved.

MS. LEVIN: In the short run, there will be some difficulties. But these jurisdictional issues are being worked out. The OECD meetings are taking place to work out jurisdictional issues. I think we will just have to work on that over a period of time.

DR. CHALLINOR: Do you have an opinion on the possibility of putting all interactive cyberspace off-limits to children?

MS. LEVIN: Well, I think the concern that was raised this morning with regard to interactivity, as I think Mrs. Gould pointed out, in terms of the safety issue, focuses largely on certain interactivity such as chat room or message boards. I think to the extent that this new Act will require prior parental consent where those activities reveal children's personal information, like their e-mail address or their postal address, will be part of the solution.

We have not taken a position on totally prohibiting children's access to these activities. I think our view has been that we want to bring the parent into the process here, particularly for the younger children. I do not see us taking a position on that.

MS. MULLIGAN: Can I just add something?

CHAIRPERSON SIMON: Sure, go ahead.

MS. MULLIGAN: Sorry to speak slightly out of turn. One of the exceptions with the parental consent provision in the Children's Online Privacy Act is there to specifically ensure that children can continue to have interactive experiences on the web. Initially, in order for a child to send an e-mail and request information, parental consent would have had to have been received by the website prior to that interaction. We were concerned about accessing information, and we thought that for children to be able to seek out information the way you would go into a store and pick up a newspaper, online, often you actually send a piece of e-mail and request information back. We did not want to create a barrier to access information. So instead of requiring parental consent there, you can give a child information back if they have asked for it, but you cannot use that information for other purposes. You have to destroy the e-mail. You cannot use it to market. So there were other rules set up to ensure that interactivity actually was protected because I think there is a risk there.

CHAIRPERSON SIMON: Ms. Mulligan, you have begun your statement. Would you like to continue?

MR. LUCCHINO: I have a question for Ms. Levin. Could you please help me to understand this new statute? You keep referring to commercial sites. I assume, then, there must be a distinction between those that are commercial sites and—I do not know what other categories there are—non-commercial, or something. Is that accurate?

MS. LEVIN: The statute defines the sites that are engaged in sale of goods or services with an exception for nonprofits, so I am using the term 'commercial' as a shorthand. Nonprofits often can

engage in commercial activities. But there is a specific exemption in the statute for nonprofits because the FTC's jurisdiction in the past has had that exception. Again, it is not to say that it would not be advisable for entities to model similar practices, but the statute itself only applies to what we would consider, in general, commercially-oriented websites.

MR. LUCCHINO: If a site does not sell anything and it is not-for-profit, is it regulated by this Act?

MS. LEVIN: No. In fact, a site does not have to make a profit to --

MR. LUCCHINO: Let's forget profit. It does not sell anything. It provides information. A library site does not sell anything. Every public library in the country has a site, a webpage. The FTC wouldn't regulate that?

MS. LEVIN: It could well not fall within our jurisdiction, but this is one of the things that we will be working out in the rulemaking. Certainly, it is my understanding that most libraries were nonprofit or state-funded or state entities.

MR. LUCCHINO: Let me get right to the point then. The site that Mr. Vachss mentioned this morning, nambla.org., National Association for Men and Boy Love Association, would the FTC regulate that if they did not sell anything?

MS. LEVIN: I could not tell you unless we looked at its business practices. We would have to see whether or not it would be defined within the statute. Without knowing whether or not it is a tax-exempt organization, that is nonprofit qualifying under IRS standards, then—and it has to be a true nonprofit—we would look beyond simply whether it has received an IRS exemption. But if it serves as a sham profit organization, it would fall within our jurisdiction.

MR. LUCCHINO: They do not want to make a profit. They just want to communicate with little kids.

MS. LEVIN: It may not. I cannot tell you.

MR. LUCCHINO: Chances are the FTC language would not help us. The statute would not help us in that situation?

MS. LEVIN: Again, we are going to be able to address some of the problems but not all of them.

CHAIRPERSON SIMON: Thank you. Ms. Mulligan, would you present your testimony.

Testimony of Deirdre Mulligan

MS. MULLIGAN: Sure. My name is Deirdre Mulligan, I am a staff counsel, one of three, at the Center for Democracy and Technology (CDT). We are a nonprofit independent civil liberties organization that focuses on ensuring and preserving our democratic values and civil liberties as we move into this new medium.⁴

From its inception in 1995, CDT has been very involved in two areas which I think are of interest to the Commission this morning. The first being how to achieve the goal of protecting children from inappropriate material on the Internet consistent with our constitutional values and with the growth

⁴ Ms. Mulligan's statement begins on page 123 in Appendix A. Additional material submitted by Ms. Mulligan begins on page 132 in Appendix A.

and the global nature of this medium. The second being how do we deal with the issue of protecting individual privacy, the privacy of both adults and children in the online environment.

I am very pleased to be here. I think libraries, as both the gateway to information and knowledge and a very stalwart protector of their patrons' privacy, are very often in similar positions on issues that involve the Internet.

The rising popularity of the Internet and commercial online services and websites, particularly those directed to children, have been met with rising concern about the vulnerability of unsupervised children engaged in activities online. And, indeed, while I think the Internet's potential is often overlooked in news stories and articles that tend to focus on the threats, there are some very real risks to children. I appreciate this forum to discuss how we create real solutions for those real problems.

The issues that I think have generally gained the most press and raised the most public anxiety fall into three different boxes. One, protecting children from inappropriate information. Two, protecting children from those who seek to harm them. Third, protecting children's privacy. This fall Congress passed its second effort to broadly limit access to certain types of information on the Internet called harmful to minors. It also visited several proposals to look at mandatory filtering within libraries and other publicly-funded institutions. It also, as Ms. Levin discussed, passed a bill to protect children's privacy. I think that crafting is safe in enriching an online environment whether we are looking at First Amendment issues, and that the privacy issues require us to really think about how those rules impact, not just on children and their safety, but on the diversity of information that is available and the privacy of all those who are interacting in the online world.

I think that the National Commission on Libraries and Information Science's task is not an easy one, the task of dealing with children and access to information. The Internet does not have a "children's section," quote unquote, like many libraries do. I think that the task that libraries and the communities have before is to figure out how to guide and educate their children to ensure that they have an enriching experience online. This is not one that is easily mirrored in the offline world.

We have had a discussion, at least briefly, about the jurisdictional issues that arise on the Internet. We can craft laws here that will not necessarily impact on the broad types of information that are available locally. Right now, we have many filtering technologies that are becoming more robust and more flexible. However, if forced to choose between different commercially available filtering technologies, I believe that libraries today will be forced to choose between their obligations, their desire to maintain adults' ability to access constitutionally protected speech and the more limited choices that filters often offer. As many libraries look at the filtering technologies that are available, they find that they screen out things that go far beyond what many people think are harmful to children, and so libraries, right now with their existing resource constraints, are really, I think, looking at how to create "best practices."

Many libraries are looking at a combination of educational efforts and working with parents to figure out how we craft appropriate guidelines that are not necessarily 'one size fits all.' I hope that the Commission will continue to look at that issue; it is not an easy one.

In the area of children's privacy, I would suggest that the Commission has a huge opportunity to play a very important role in our discussion. As Toby discussed, the legislation that was enacted is a real step forward in that it will seek to do what libraries have done very well for many years, which is protect the privacy of those who are seeking out information. However, when you are dealing with people, we traditionally do that in kind of a notice and consent model, and as an adult that works very

well. You tell me what information you collect, and we enter into an agreement about how you as a library are going to use that information.

When we are talking about children and their interactions with websites and others in the online environment, this is targeted at websites which are dealing with children (not the broad array of websites) because you do not want to actually force people to collect information about the age because that puts people more at risk by identifying them.

But websites that are targeted at children have to take special precautions and those precautions involve interacting with parents. Parental consent, as you said, is not an easy thing to figure out in the online environment. I think the last thing we want to do is invent some cumbersome mechanisms that interferes with timely access to information unintentionally, and that is clearly not the goal.

I worked very closely with the Federal Trade Commission on this bill, but I think it is incredibly important that librarians and others who are involved in kind of acting as parents in certain situations be involved in figuring out how these rules work in public institutions. I would encourage you to look at this issue yourself. If you have any particular ideas or thoughts, please make sure that they are heard in the Federal Trade Commission rulemaking.

Questions and Answers

CHAIRPERSON SIMON: Thank you, Ms. Mulligan. Are there any comments or questions from the Commissioners?

DR. CHALLINOR: I have a question. This may sound rude, but it is not meant to be. I hear again and again that parental consent is enough. As an old social worker, I worry about the extent to which parental consent is a deterrent. If I gave my four-year-old child parental consent to stay out all night and walk the streets, what would happen?

MS. MULLIGAN: Certainly, what we are talking about here is personal information. I think that we, as a society, set rules about children's safety and, unfortunately, there are parents who do make decisions to let their kids walk around the streets. Sometimes they get hauled in for abuse and neglect. Sometimes they don't.

DR. CHALLINOR: So something happens? There is a mechanism to protect that child. If I signed a slip saying that I do not care whether my child goes to school or not, there is a mechanism to protect that child. In other words, what I am struggling with is, in some ways we know what is dangerous for a child, but when we are faced with pedophilia we sort of say, well, we are not sure, and this and that, and parental consent is enough. Have I got the wrong handle on this?

MS. MULLIGAN: Certainly, from my perspective, I am not a specialist in kind of child advocacy or in people who are pedophiles on those child safety issues. I work on access to information, First Amendment and privacy issues. The privacy bill that passed, I think, will afford children some added protection against people who would actively solicit information from them.

However, the same way that kids can go out and pick up a telephone, or from their own home pick up the phone, and make a phone call ... we have not said kids cannot use the phone because they would not be able to call 911 or 411, and they would not be able to call the pedophile. Similarly, on the Internet you are looking for rules that get at bad behavior but do not necessarily turn the Internet into a telephone.

I think that my message here is not that I know all the answers, but that this is a real difficult puzzle. I am really pleased to have the opportunity to work with you and the other participants here to figure it out.

MS. LEVIN: I would like to add something. Since the statute requires a parent to provide affirmative consent for those certain activities in which a child might reveal their identity on the sites that are covered by the statute, those parents who do not act to provide that consent, for whatever reason—they either don't know about it or they don't understand the issues—if they do not provide the consent, their child would be protected because the site would be barred from collecting that child's information or allowing that child to participate in the activity.

The reality is, and I hear this from businesses involved in these activities, that the legitimate one will be reshaping how these activities are done.

Some sites have what they call 'delayed chat' where they filter in advance the information for a lot of reasons because some of it is very inappropriate, and to make the chat an opportunity to have some communication without any revelation about who the child is. They use screen names. Some of the legitimate companies are coming up with ways to make interaction a safer activity for children as well.

MR. WILLARD: I think it is important to remind everybody that the focus of today's hearing is on kids and the Internet. While much of the testimony so far this morning has focused on what I would characterize as the much more troubling aspect of predation, pedophiles, and lesser access to pornographic material, a third related, but unrelated, topic is the whole collection of personal information about kids and their families. Our focus in this particular session is not on those earlier subjects but simply on the privacy collection, and that is where parental consent is being sought. I do not think there is any intention to solicit parental consent for some of the earlier maladies we talked about.

MS. LEVIN: If you are actually interested in the law itself and following up our FTC activities to implement it, please go to our website. You will see there is a privacy link on our home page.

CHAIRPERSON SIMON: And be sure to pick up the information on the table outside.

MS. LEVIN: Right.

CHAIRPERSON SIMON: We thank you both very much.

MR. LUCCHINO: I want to ask Ms. Mulligan a question. It is still unclear to me what the philosophy of the Center for Democracy and Technology is. Is your organization's philosophy that there should be no impairment of anyone's ability to get on the Internet in a public library, or do you fall into a different category? I am not clear what your organization stands for.

MS. MULLIGAN: I am not sure I understand your question, but I will try to answer.

MR. LUCCHINO: Do you take the same stance as, perhaps, the ACLU, that is, that nobody should restrict anything to anyone? I am not suggesting that is their position, but something like that.

MS. MULLIGAN: I would not want to characterize another institution's position, but I am happy to do my own.

MR. LUCCHINO: Okay, characterize yours.

MS. MULLIGAN: We clearly think that the Internet, as the Supreme Court's decision in *Reno versus ACLU* says, provides an unprecedented opportunity for our personal values, access to information, the ability of individuals to become publishers and speakers, to reach around the world. We are very, very anxious to ensure that any solutions to deal with the issue of protecting children do not turn the Internet into a playground.

That does not suggest that we do not think there are solutions. We clearly do. For example, within the context of the home, I think it is completely appropriate for parents to voluntarily choose to use filtering tools, to monitor, to block, to do a variety of things to deal with their children's activities.

Many of the proposals that have been put forward to deal with access to information in the context of libraries have been mandatory filtering proposals that would not just protect children, and they clearly would not just protect children from information that the state is constitutionally allowed to limit access to. It would limit access to a much broader category of speech, and it would have the impact of not just limiting children's access but limiting the access of adults to that information.

MR. LUCCHINO: Let me ask you this question with regard to public libraries: Would your organization be in favor, or opposed, to our public library, or any public library, limiting the ability of children in special sections to not get on the chat pages?

MS. MULLIGAN: I think that the chat issue is a difficult issue. I do not think we have an institutional policy. I can tell you that if you institute that policy tomorrow, we would not be rushing in to litigate.

I think there are some real challenges. For example, the American Library Association itself, I believe, offers kids a kind of question and answer help service for homework. I would not want to see a chat rule that eliminated that interaction. The DC National Zoo allows kids to get online to ask questions of the zookeepers. I would not want to eliminate that interaction.

I certainly share your intent to protect children, and I am certainly the person that is going to sit at the table with you and figure out how to do it. Can I tell you whether or not I think a blanket rule stating, "No children shall ever be allowed to engage in chat" is the right answer? No.

MR. LUCCHINO: From the children's section of the library?

MS. MULLIGAN: I cannot say that I believe that is the right answer. I can say that I honestly think there are risks to children posed in that kind of interactive chat, and that I think there are real things that could be done to address some of those risks.

MR. LUCCHINO: Mrs. Gould has advised us that in the Washoe County library, children cannot do chat. So, obviously, they cannot do chat at the zoo or at any other place if, in fact, what I heard her say was accurate, that they block all chat. Let me finish.

MS. GOULD: Yes and no.

MR. LUCCHINO: It is always, 'Yes and No.' For those of us who are trustees, we have to make a decision. It is not, 'Yes and No.' It is, "How can you do it?" and "How can you do it technically?" Let me ask you the next question. Is your organization opposed to filters on children's room computers while we still have adult computers that have no filters?

MS. MULLIGAN: We have not taken an official position on that. I would be happy to respond to the Commission in writing. However, I would need a specific proposal to review. In general, certainly, if the federal government was to legislate mandatory filtering ...

MR. LUCCHINO: No, my library does.

MS. MULLIGAN: I think at your library, depending on the funding, it may not raise constitutional questions, although I would be surprised if it didn't. But I think it clearly still raises some questions about the public policy. I would be happy to get back to you, but I would have to look at the situation.

MR. ANDERSON: I have a simple technical question for Ms. Levin. Would you explain to me where 12-year-old children became some kind of barometer? I have known 13, 14, and 15-year-old children who have been sexually abused by predators. I have known children in that age group who have been killed. I also know, and I am not an attorney but I am sure the attorneys would support this, that a 13, 14, or 15-year-old is certainly a child and cannot give informed consent. Where on earth did you get 12, and why?

MS. LEVIN: Well, we looked at this issue. Ms. Mulligan and others have been ...

MR. ANDERSON: Did Ms. Mulligan help you with that decision?

MS. LEVIN: Many, many people over a period of two, three years have discussed the issue of how to approach privacy protections. The decision was made that this was a first step in the process. I can only say to you that in two months we went from a bill to legislation. I do not think there is any other bill out there that saw that kind of lightning speed.

MR. ANDERSON: Is the answer, you do not know?

MS. LEVIN: Excuse me, one moment. On the other hand, the Commission is also committed to making an assessment at the end of this year on adult privacy, including children over the age of 12, and to make a recommendation on how to address that issue. We will be looking at how self-regulatory efforts have been working in the marketplace at that time, at the end of this year, and then we will follow up with an assessment.

I do not want you to think that we are just throwing older children out the window. This legislation selected the focus on the younger child because it was the easiest issue in terms of developing a consensus.

The issues get much more complex when you are dealing with adolescents who may want access to information that their parents may not want them to have access to. There are some different types of privacy concerns for teenagers than with younger children. We wanted to try to look at that in the context of the adult privacy so that, perhaps, teenagers would be given notice of information practices and have more control over their own information.

The role of parents may be a little bit more difficult in that area, but that is not to say that there might not be a role for parents. In fact, our original recommendation is that there be at least notice to parents. We are still working out how to address that age group. And, as I said, it is not a closed door at this point.

CHAIRPERSON SIMON: What you are saying is this is only the beginning, Ms. Levin, and there is much to be done. Ms. Mulligan, one final word.

MS. MULLIGAN: If I may. You asked if we were involved in drafting the Federal Trade Commission's bill that they are about to proceed implementing. Clearly, we and many other organizations were involved. CDT has been pushing for comprehensive legislation to protect the

privacy of all Americans, not just kids. We anticipate continuing to work with the Federal Trade Commission and Congress on moving such legislation.

Of particular importance is that this bill does not just say you must get parental consent before you collect information—it creates a mandatory right of access to information about children's activities in the online environment by other parties.

As a library, can you imagine that this means mandatory access to records about everything that a child, and if a child is defined as someone up to 18, has ever taken out in the library would be open to their parents? You can imagine that this raises a number of considerations that go beyond the parental consent model for collecting data, and that there are real reasons why an 8-year-old and a 12-year-old, or an 8-year-old and a 17-year-old, may be treated differently, and that their parents' privacy interests and their interests in privacy may not always be coterminous.

I think it is appropriate, and that Congress took a responsible step in looking at teenagers as a slightly different case. I think we will see rules in that area, but I think they will be slightly different.

CHAIRPERSON SIMON: Thank you very much, Ms. Mulligan. We will conclude this panel, and take a three-minute break to assemble our next panel.

6. Panel 3: Bruce Watson, Enough Is Enough, Janet LaRue, Family Research Council, and David Burt, Filtering Facts

CHAIRPERSON SIMON: We are going to begin with a panel of three speakers. We will shorten the lunch hour because we love to talk, and because everything is so important. The only thing we can shorten that will not hurt us is the lunch hour. We will now begin our third panel. I understand we have David Burt testifying by telephone. Mr. Burt, are you there?

MR. BURT: Yes, I am.

CHAIRPERSON SIMON: We can hear you. Can you hear us?

MR. BURT: You are a little faint.

CHAIRPERSON SIMON: We will try to speak louder. The first person on the panel is Bruce Watson, President-Elect, Enough is Enough. Mr. Watson, would you proceed, please.

Testimony of Bruce Watson

MR. WATSON: Thank you. Good morning, I am Bruce Watson, and I appreciate the opportunity to be here. Enough is Enough is a national organization dedicated to making Internet safe for children and families.⁵ I would like to address two issues. One, is Internet pornography and sexual predation really a problem? Second, what do parents expect of libraries in this situation?

Frankly, with respect to the first question, it is no longer in serious dispute that the problem exists. As one example, the gathering of 400 people last December at the White House-initiated Internet Online Summit focusing on children was an explicit recognition of sexual pornography and predation as a problem affecting children.

5. Additional material submitted by Mr. Watson begins on page 136 in Appendix A.

The published comment of one senior ALA official that “only one child out of a trillion billion might use library computers to seek porn,” suggests that it is still necessary to speak to the issue in this forum for the record.

At Enough is Enough we focus on what we believe to be the two primary dangers to children online—children's easy access to pornography, and pedophiles' easy access to children. Many libraries have already chosen to reduce the danger to children from online predators by not providing access to chat rooms, news groups, and e-mail, which we would agree with. But this does not protect children from pornography on the Internet.

Estimates of the number of commercial pornography sites online vary between 40,000 and 100,000, or more. More importantly, these are the most frequently visited sites on the web. Last year the *Wall Street Journal* noted that while many other web outposts are flailing, cyber porn is fast becoming the envy of the Internet. As a result, hard-core pornography is stunningly easy to find on the Internet. This can be demonstrated by a simple, unfiltered word search on a standard search engine like Yahoo for words as innocent as woman, girl, boy, dollhouse, gang, or pets. To require hormonally super-charged 14-year-old kids to keep saying, “No,” to the resulting offerings from unfiltered browsing is unrealistic. The protection of minors from pornography should not be entirely up to their own self-discipline.

Even more disconcerting are the many stealth URL's used by Internet pornographers—for example, whitehouse.com, as opposed to whitehouse.gov; sharware.com, which is a typo away from the popular shareware.com site; or bambi.com which has nothing to do with Walt Disney. In many cases, the child entering the look-alike name into a browser is taken directly to a porn site.

Given how easy it is for children to encounter pornography online, is there any reason to believe this is not happening in libraries? Well, absent filtering, why wouldn't it? In fact, each month does bring more reported instances which are documented in our files and those of Filtering Facts. Because of the time constraint I will not go through case studies, but there are some examples in the written submission that I will leave behind.

To move to the second question, “What do parents expect of libraries in this situation?” I would suggest that most parents have a very simple expectation of the local libraries in response to the mixed blessing of the Internet, and it is simply this: Do not change the library's selection policy just because of a new technology. In other words, if the print equivalent of a website would not meet the library's selection criteria, why carry the online version?

Some respond that the only historical constraint on library acquisitions has been financial, and the Internet removes the financial constraint. But the Internet, of course, does not remove financial constraints, it just changes the unit of measure. More importantly, selection policies are not set by purely financial constraints unless you have unbounded belief in the power of coincidence.

To illustrate, if you search a number of libraries for a given piece of only moderately popular print fiction, you can expect that some will have it and some will not. But if you look for the print version of *Hustler* or the video of [Debbie Does Dallas](#), you will not find them anywhere in public libraries. That is not coincidence—it is because selection criteria are based on more than budget constraints. Such materials have never been considered part of the mandate of a public library. Why start now? And why for kids?

I have seen it argued that if parents wouldn't drop off their kids to spend an hour unsupervised in the middle of New York City, then they shouldn't drop them off in the library and expect free babysitting.

Well, librarians are not babysitters and should not be expected to be, but it is a long way from the Supreme Court's description of a library as, "a place dedicated to quiet knowledge and beauty" to Central Park, New York City. If libraries choose to redefine themselves as now being an unsuitable environment for unaccompanied minors, they can reasonably expect to lose the support of their patrons and their constituencies.

Intellectual freedom is an important value in our society, and so is protecting kids. But the issue is not which value should trump the other. It is simply that there is nothing intellectual about hard-core pornography. Accordingly, we believe that libraries should, at a minimum, filter Internet access for minors. If a parent wishes their child to have unfiltered access, that is clearly their responsibility; however, the parent should be present during any unfiltered access so that the library does not have to act as a babysitter. The First Amendment will not fall in ruins if libraries continue their time-honored policy of not providing pornography to children. Thank you.

Questions and Answers

CHAIRPERSON SIMON: Thank you very much, Mr. Watson. Do you have any comments or questions for Mr. Watson?

MR. LUCCHINO: Mr. Watson, as a library trustee, at what age should I say that we require parental consent to have unfiltered use of the Internet?

MR. WATSON: Traditional definition tends to be under 18, or perhaps under 17. Under 17 is also the definition that is used in the current Child Online Protection Act. Is that rough justice? Yes, it is. There are 13-year-old, 14-year-old kids who could handle themselves responsibly.

There are also 13 or 14-year-old kids who could handle themselves responsibly with weapons, but we do not choose to make those available to them. There are 13 or 14-year-old-kids who could drive responsibly, but you have to wait until a certain age.

MR. LUCCHINO: I understand the position of your organization is that a library should restrict access to a computer that is unfiltered if the person is under the age of 18, unless they have the specific written consent of their parent?

MR. WATSON: That is correct.

MR. LUCCHINO: Thank you.

CHAIRPERSON SIMON: Mr. Abramson?

MR. ABRAMSON: Can you just give me a small word picture of the genesis of your organization? Was it in reaction to a specific incident or series of incidents, or is it a spin-off of a group of parents and/or teachers? I am not familiar with your organization.

MR. WATSON: We have been in existence since 1992. Initially our concern was the spread of pornography through society generally. About three or four years ago, as we saw what was happening on the Internet and, particularly, the impact on children, we changed our focus. Our focus is making Internet safe for children and families.

CHAIRPERSON SIMON: How large is your organization?

MR. WATSON: We are not a large organization.

CHAIRPERSON SIMON: How many members?

MR. WATSON: In terms of support, our total mailing list is approximately 19,000 names. Our full-time staff is very small.

MR. LUCCHINO: Because we face this issue on a real basis at the public library level, and because our funding comes from the public, it is so easy to get elected officials riled up about this subject. And those are the same people we have to go to get the millions of dollars that we need to operate our public library.

How would you deal with the issue of a parent who says that I want my 8 year-old to have access to unfiltered information, access to chat rooms? Should we allow that in the public library?

MR. WATSON: I think in the case of chat rooms, there is very logical reasons why libraries, many libraries, are deciding not to provide chat rooms, period. The chat room is a separate situation from the Internet access.

MR. LUCCHINO: But the parent specifically says, "Allow my child to do that." Do we have any other obligation as a public institution?

MR. WATSON: To me, there is nothing in the nature of the Internet that suggests a seamless whole. I mean, the analogies of the different parts of the Internet are quite different. E-mail could have an analogy to U.S. mail; chat rooms could have an analogy to conference calls on the telephone. The websites are somewhere between print and broadcasting. You figure out which. That to me suggests there is no logical reason why a library has to feel compelled to provide all the aspects of the Internet. It may not be within their mission.

MR. LUCCHINO: What I am saying is that we have a parent who specifically asks us to. Is there a certain age that below which the library needs to exercise its own judgment, regardless of what the parent says?

MR. WATSON: There would be a difference between what I would support and what I would strongly advocate. I would support a library taking the decision that they are not in the business of providing access at all below a certain age because they have not been in the past.

Recognizing there are different views on this issue, there is going to be a place for compromise. On a compromise basis for me, if the parent has specifically requested it, I am not going to dig in my heels indefinitely.

CHAIRPERSON SIMON: Further comments or questions? Thank you, Mr. Watson.

Janet LaRue, you are the next person. I understand you have testimony you wish to offer for the record?

Testimony of Janet LaRue

MS. LaRUE: Yes. I have submitted a copy of my statement that I will make here today.⁶ Also, I would like to submit for the Commission's consideration a copy of the testimony given by Detective

⁶ Ms. LaRue's statement begins on page 141 in Appendix A.

Daryk Rowland⁷ of the Huntington Beach, California Police Department before the United States Senate Subcommittee on Communications, a hearing on the subject of the necessity for software filtering in public schools and libraries to protect children from exposure to pornography and sexual predators. I assisted Detective Rowland in the preparation of this statement and can authenticate it.

CHAIRPERSON SIMON: Thank you. That will become part of the record.

MS. LaRUE: I am also submitting a copy of the results of a worldwide web search I conducted on September 8, 1998, using “toys” as a search word.⁸ The search resulted in 159,499 hits. The second hit was for sex toys, adult sex toys, erotica toys, cyber sex toys. The attached documents are copies of what I was able to see and download without any proof of age, credit card, adult PIN or adult access code. The same material would have been viewable and retrievable by any child. There are copies here. All depictions of sex acts.

In addition to that, I would like to submit a copy of the memorandum of law prepared by the National Law Center for Children and Families⁹ on the subject of the Internet and the legality and constitutionality of the use of software filters. I am a co-author.

CHAIRPERSON SIMON: Thank you, Ms. LaRue.

MS. LaRUE: I am the Director of Legal Policy for the Family Research Council. We are very concerned about the protection of children online. We appreciate very much the wonderful opportunities for information available to children, but we are extremely concerned about the access children have today to not only inappropriate material but to very dangerous individuals.

It is crucial to analyze the appropriateness and constitutionality of the use of software filters in public libraries within the proper First Amendment framework. That necessitates understanding the distinction between situations in which the government is acting as sovereign, meaning regulating private speech in a limited public forum as opposed to situations in which the government is acting as patron or provider of speech.

In the context of a public library, the government is acting as patron provider and not as sovereign. In choosing not to provide certain speech as a patron provider, regulations more intrusive than what may lawfully apply to the general public are permissible. In the recent Supreme Court case, *NEA v. Finley*, the U.S. Supreme Court acknowledged that there is no constitutional obligation to provide government funding for the arts.

The court said, “And as we held in *Rusk*, Congress may selectively fund a program to encourage certain activities it believes to be in the public interest without at the same time funding an alternative program which seeks to deal with a problem in another way.”

The government has not discriminated on the basis of viewpoint. It has merely chosen to fund one activity to the exclusion of the other.

7. Detective Rowland's statement begins on page 144 in Appendix A.

8. Ms. LaRue's web search results were submitted for the record, but not reproduced in this publication.

9. The memorandum from the National Law Center for Children and Families was submitted for the record, but not reproduced in this publication. The summary begins on page 146 of Appendix A.

There is a basic difference between direct state interference with a protected activity and state encouragement of an alternative activity consonant with legislative policy. There is also no constitutional requirement for the government to provide access to pornographic images in public libraries.

Even though an individual has a right to access First Amendment protected pornographic images through his or her own computer via an Internet service provider, there is no constitutional right to do so through a government funded computer in a public library.

As the Supreme Court held in *Capitol Square Review Board v. Pannett*, “It is undeniable, of course, that speech which is constitutionally protected against state suppression is not thereby accorded a guaranteed forum on all property owned by the state ...” Environments such as prisons, public schools, the military, or the government workplace, “... must allow regulation more intrusive than what may lawfully apply to the general public.”

The distinction is often phrased in terms of differential standards of review applicable to the government when it acts in roles other than sovereign, but it may be more apt to conceive of it as a distinction between government regulation of public discourse generally and government regulation of speech within governmental institutions.

More emphatically, it is inconceivable and unsupportable to argue that the government must provide access to illegal pornography through public libraries. There is an absolute and enforceable criminal prohibition under current federal laws against the transmission of obscene material and child pornography over the Internet, use net, worldwide web, bulletin board systems, chat rooms, e-mail and other online services.

It is unlawful to transmit obscenity and child pornography by computer transmission and services which use phone lines and common carriers, just as it is by mail or any other method of interstate or foreign commerce. Obscenity and child pornography are not protected by the First Amendment and are not within the area of constitutionally protected speech or press.

The dissemination of sexually explicit material legally defined as harmful to minors involves the safety of children, a matter of surpassing public importance. Most states have enacted harmful-to-minors legislation patterned after the U.S. Supreme Court case, *Ginsberg v. New York*, which upheld controls on the dissemination of harmful matter to minors, even though that matter may not be obscene for adults.

In *Ginsberg*, the Supreme Court definitively held that protecting children from exposure to obscene and harmful material satisfies a compelling governmental state interest. This was reaffirmed by the court in *Reno v. ACLU*, which reviewed the Communications Decency Act.

The voluntary and discretionary use of filtering software by libraries and schools, both public and private as well as by private companies and institutions, to assist in preventing the acquisition of illegal and objectionable pornography from the various interactive computer services available through the Internet and other online databases, and to restrict access to sexually explicit pornographic material on computer terminals is lawful and fully consistent with the Constitution.

Just as a library or school has broad discretion in selecting books, magazines, and videos for their collection, avoiding an inadvertent or involuntary selection or acquisition of pornography by employing a software program or other screening service allows for the screening or filtering of that material which the library or school would not otherwise have chosen for its collections.

Libraries, schools and businesses making good-faith use of such access, restriction software to prevent children or to avoid illegal materials for adults, is protected from liability by the good Samaritan immunity provided by the CDA, and that includes the inadvertent blocking of material that is constitutionally protected.

In closing, I would just say that the viewing of pornography in public places creates an offensive, uncomfortable, and humiliating environment for women and co-workers and could place libraries, as it would other businesses and schools, in jeopardy of creating a hostile work environment in violation of Title VII, U.S. Code.

Thank you.

Questions and Answers

CHAIRPERSON SIMON: Thank you. I realize you shorten your testimony somewhat, but we have the written record here.

MS. LaRUE: Yes.

CHAIRPERSON SIMON: Are there comments or questions on what we just heard?

MS. GOULD: If I understand Mr. Watson and Ms. LaRue correctly, you both advocate that libraries, both school and public, use the same standards for selecting appropriate interactive sites as for print materials?

MR. WATSON: That is certainly our position. That is consistent with the Supreme Court's ruling in the Reno case which was that the Internet deserved to be given the same protection as print. Not more.

MS. LaRUE: Certainly schools have a right to restrict much more than the illegal pornography I mentioned, which is obscenity, child pornography, and material harmful to minors. They are also guided by the selection process of what is, or is not, educationally unsuitable and what would be pervasively vulgar.

Certainly, as I said, I believe that even if we concede that a library is a limited public forum, in that context it is constitutional to discriminate on the basis of content and not viewpoint. So, it is perfectly permissible, in our opinion, for a library to refuse to carry any pornography whatsoever and still allow materials that are legitimate and address, for example, sex education, sexually transmitted diseases, and so forth, because they are separate and distinct from the definition of pornography.

MS. GOULD: And you did not have a problem with libraries having access to Internet sites that address these issues?

MS. LaRUE: Absolutely not.

MS. GOULD: Thank you.

DR. CHALLINOR: Ms. LaRue, are you here representing your office or yourself?

MS. LaRUE: For both. I do represent Family Research Council, yes.

DR. CHALLINOR: So that we may judge some of your opinions about sexual pedophilia and things like that, what is the opinion of the Family Research Council on homosexuality.

MS. LaRUE: On homosexuality?

DR. CHALLINOR: Yes.

MS. LaRUE: We find homosexual conduct to be generally unhealthy and dangerous to the individual and to society.

DR. CHALLINOR: So, I take it that you would not want anything on homosexuality to be on anything that a student --

MS. LaRUE: That is absolutely not true. Any legitimate material. We are objecting to pornography which is merely the propagation of sex for a prurient interest. We do not object to any sex education material, whether it be homosexual or heterosexual.

MR. LUCCHINO: Where the 'rubber hits the road' for us in the public library is every day. What is the position of your organization on nudity? Everybody uses pornography. Now, we have patrons who view a nude image as pornography. Justice Stewart, I think it was, said, "I'll know it when I see it." That indicates that everybody sort of has a different view. Would your organization categorize nudity, male and/or female, just alone and not in any kind of sexual situation, as pornography?

MS. LaRUE: Absolutely not. Justice Potter Stewart said a few years later that he not only knew it when he saw it, but he described what can be obscene. He described hard-core sex acts, and they were far beyond nudity. They were lascivious exhibitions of the genitalia, and clearly not any material that had any serious literary, artistic, scientific or political value.

MR. LUCCHINO: Centerfold of *Playboy*: is it pornography that should be blocked or not blocked?

MS. LaRUE: Centerfold—you will not find in the medical textbook. It would depend on whether you were looking at the definition of obscenity or the definition of material harmful to minors whether it would be in violation of the law. Generally, it would not violate obscenity laws.

MR. LUCCHINO: That is the question we are confronted with every day. It is wonderful that we talk about it in a theoretical sense here, but those people in the audience who are librarians or trustees get confronted with this. We have people who do not want us to show something similar to the centerfold of *Playboy*. To them, that is pornography. I am just wondering. So, your organization's position would be that that is not pornography, and it is okay?

MS. LaRUE: Well, it may be pornography, but it would not meet the definition of obscenity. Pornography generally means material that is designed to arouse or gratify the reader, viewer or listener. I think that is Mr. Hefner's intent, and that is why the magazine sells.

MR. LUCCHINO: Let me make it harder: nudist site, nude beach, picture of a nude family on a nude beach. Can we show it? Should we block that in our public library?

MS. LaRUE: You would have to decide based on the way the individuals are depicted. If this is an artistic nature photograph of a family, a nude family on a beach, that may or may not be obscene. I think it would clearly have to be more. It has to be a lewd exhibition of the genitals to be material that could be excluded.

MR. LUCCHINO: Thanks.

CHAIRPERSON SIMON: I think we might want to hear from David Burt via speaker phone.

Testimony of David Burt

MR. BURT: Thank you for having me here and for allowing me to testify via speaker phone. My name is David Burt. I am currently employed as a practicing librarian at the Information Technology Library at the Lake Oswego Public Library. I have been an American Library Association (ALA) member since 1991. In August 1997 I started an organization called Filtering Facts, an organization dedicated to checking children in libraries because I was deeply disturbed by the position taken by my librarian colleagues at the ALA regarding filtering the Internet access of children.¹⁰

I am sure we are going to hear many times today that filters simply do not work. I do not believe the evidence supports this view at this time. Unfortunately, there are no good, scientific studies to tell us how well the filters in public libraries work so we have to rely on anecdotal evidence. But there is no evidence to suggest that the filters in use today by public libraries block more than a few dozen, or perhaps even a few hundred, sites by mistake.

The reports about filters published by anti-filtering activists support this claim. In December 1997 a group calling itself “The Censorware Project” examined the filter CyberPatrol’s list of blocked sites and found about 60 sites that were clearly blocked inappropriately. In the Loudoun County case, the plaintiffs claim about 100 sites were inappropriately blocked. The defense claims the number is far less. Let us get some perspective here: the precise number of individual websites is not known, but it is widely believed to be in the millions. Fifty or one hundred sites out of millions are a tiny, tiny fraction of 1 percent of the entire Internet. It would follow then that public libraries would report few complaints from patrons about incorrectly blocked sites. Indeed, a survey I conducted last year of 24 public libraries that filter showed an average of 1.6 complaints per month. If a child using a filtered terminal encounters an incorrectly blocked site, most libraries have a policy of overriding the filter upon request. This helps to frame the choice libraries make by filtering or not filtering for children: a library can either require children to ask permission to see a tiny fraction of 1 percent of the entire Internet, or they can expose children to 70,000 pornography sites.

Because of this lack of reliable data, I would like to suggest that this Commission take the lead in producing better data. I think that conducting a study that could tell us what we need to know would be pretty straightforward. Such a study would involve writing a special computer program that would run on Internet workstations in several public libraries that would either filter for all patrons or just for all minor patrons. First, the program would record the address of every website that every patron visited. Second, the program would record the address of every website someone tried to access but was blocked by the filter. Third, the program would record if the filter were overridden in any of the cases where a patron encountered an inappropriate block. With this method we could actually get a reasonable idea of: 1) What exactly patrons are being prevented from viewing in libraries that filter, 2) How often patrons are prevented from viewing websites they want to access, and 3) When a patron encounters an inappropriately blocked website, how likely they are to ask to see it.

I would also like to make a second suggestion to this Commission: That this Commission embrace a compromise solution to the problem of the availability of hard-core pornography in libraries. The compromise would be that all minors be required to use filtered Internet access, with the parent

¹⁰. Additional material submitted by Mr. Burt begins on page 148 in Appendix A.

having the option to grant their own children unfiltered access. This solution first appeared in the Boston, Massachusetts, Public Library after a much-publicized controversy when the Mayor of Boston ordered filtering on all Internet terminals. In Boston, this compromise has proved to be both successful and popular. In Boston, when children have obtained their parents' permission to access the unfiltered Internet, they have automated this policy.

The Dayton-Montgomery Public Library in Ohio has worked with the company N2H2 to produce a customized filter that interfaces with the library's database of patron records. All of the terminals are filtered. When an adult wants to have an unfiltered Internet session, the patron simply enters their library card number, and the system determines if the patron is an adult or a child. A patron may have their child's card authorized for unfiltered access.

Let me say at this point that this is not my ideal solution. I believe that all minors' access should be filtered, and that it should not be the library's function to provide children with pornography under any circumstances. But I am willing to compromise. This is not a solution that will satisfy everyone, but I believe it will satisfy most people. So, I would like to ask this Commission to endorse this type of compromise and to ask the American Library Association to promote this solution as well. I believe that if this compromise solution were promoted by ALA and widely implemented by public libraries, there would be no need for future legislation.

Thank you very much.

Questions and Answers

CHAIRPERSON SIMON: Thank you, Mr. Burt. We will be hearing from the ALA and other speakers who may differ with you on that. Comments from the Commissioners?

MR. ABRAMSON: I have a question for each of you. It is not quite a 'yes' or 'no' question, and I am not looking for a long answer. In recent legislation there was a suggestion that no federal funds be used in a school or library unless the terminals were filtered.

There was a position which—I would not characterize it in strictly political terms, but more of a libertarian position—suggested that federal funds should be available as long as the local governance structure, which might be a board of trustees similar to the one that I have served on, or in some cases it is the city council, had met and voted on a policy that was written, that was all that would be required.

There are roughly 9,000 U.S. public libraries, some with branches, in a total of maybe 17,000 locations. How do each of you feel on that specific issue of whether federal funds should be conditioned upon having filters for children, or just on the existence of a local policy?

MR. BURT: I can address that. I supported that legislation. I do not think that federal funding should be used to provide pornography to children against the wishes of their parents. I am in favor of tying funding to filtering. I think the problem with the local control option is that, according to the American Library Association, 85 percent of public libraries already have policies and that includes libraries like the Los Angeles Public Library and the New York Public Library that have reported extensive problems with children accessing pornography. So, this would simply ratify the existing situation and not really do anything to address the problem.

MR. ABRAMSON: Just as a point of information. I understand that, with the exception of a little information-collecting problem, it is closer to 90 percent of libraries having written policies.

MR. BURT: That is probably accurate.

CHAIRPERSON SIMON: Would the other speakers like to respond to that question?

MS. LaRUE: Yes, we supported that legislation as well. I agree with Mr. Burt regarding the awareness of the committee which conducted the hearings. I also believe it is in the legislative record that the awareness of local policies regarding parental consent, in feeling that that was not adequate to protect children.

MR. ABRAMSON: I am not referring to parental consent now. I am trying to be very, very specific. The suggestion was that federal funds would be conditioned upon having a policy about filtering. It had nothing to do with parental consent.

MS. LaRUE: Your question had to do with—in spite of the fact that there was a local policy in which ...

MR. ABRAMSON: No, I apologize for having so much trouble explaining it. The legislation said that if you do not have filtering on terminals in schools and libraries, as it was originally written, that are accessible to children, you cannot receive federal funds. The alternative was, as long as the governance structure has a current written policy upon which they have voted, you can have federal funds; we do not care what you require.

MS. LaRUE: Obviously, we supported the former requiring the installation of filtering if federal subsidies are used. It is quite common under federal bills and with grants to states that they have a 'hook' in them, such as highway funds. You have to have certain laws regarding drunk driving and crime. You have to have laws requiring the reporting of child sex abuse and so forth.

MR. ABRAMSON: I understand, but there would be a 'hook' to say you must have a local written policy that has been voted upon. That would be a 'hook'.

MS. LaRUE: What is the local policy? I am still not clear on your question.

MR. ABRAMSON: It is whatever they have voted on. Community standards. I am not advocating either position. I am saying if you cannot receive federal funds until you have voted upon policy which is in writing and current, that is a hook. Is it or is it not?

MS. LaRUE: My understanding has to be that the local policy had to be that there would be filtering.

MR. ABRAMSON: No, that's not it at all. You had to have a local policy considered by the governance in your community.

MS. LaRUE: It required installation of filtering.

MR. ABRAMSON: It did not require you to have filtering if you had a written policy. But that is your position, you should have filtering in all cases to get federal funds?

MS. LaRUE: Yes. That is what I am trying to make clear.

MR. ABRAMSON: The other position, libertarian, whatever the local people want, as long as they have fully considered it would open the gates, if you will, to federal funds. You are not an advocate of that position, and I don't think Mr. Burt was either. And now you, Mr. Watson?

MR. WATSON: I will respond to that. The debate at that time was whether local filtering should be required or whether an acceptable use policy was sufficient. In my view, acceptable use policies are not the answer because there is not a kid in the country who does not already know that using school or library computers for pornography is not an acceptable use.

Not only do the libraries already have those in place, kids know that is not an acceptable use, so the policy does not really answer the problem. The solution does require the step of requiring filters to be in place. If the funding is not tied to the filtering, then the government is, in fact, in a position of funding the distribution of pornography through schools and libraries.

The comment was made that the cost of putting in the filter increases the amount of money the government is putting into the library. But, on the same basis, you could say that unfiltered water would be cheaper to supply in government buildings than filtered water. It does not make it acceptable, so we support the legislation and acceptable use policies are not an adequate substitute.

MR. LUCCHINO: I have a question for Mr. Burt. My name is Frank Lucchino. I am a trustee at the Carnegie Library of Pittsburgh and a member of the Commission. I read with interest your comments in *The New York Times*, October 15, 1998, when you evaluated five different filtering products, including CyberPatrol. Everybody I have ever talked to, and some of our witnesses this morning, have said any kid knows how to get around all of the filtering systems. What is your comment about that?

MR. BURT: Well, it depends on the type of filtering. If it is being done at the server level, not at the local workstation PC but at the server level, it is much more difficult for the kid to break into. If the filter is actually running on the PC that the kid is using, a smart kid, that has some information about how to disable the filter and is determined to do so, yes, he/she will probably be able to disable most filters. I have not read a lot of reports of that, and I think that is because the use of these terminals is typically monitored. A librarian would observe a child disabling a filter, and they would be disciplined. I think this also points out that filtering is only a tool. It is only part of the solution, and it has to be done in conjunction with a policy, with monitoring children's behavior. You do not simply put up a filter and then just ignore the child. As a computer professional, that is how I treat my workstations because I like to keep an eye on them to see what they are doing and make sure that people are not abusing them.

MR. LUCCHINO: So, at our library, if our librarians assured the Board of Trustees that the filter was placed at the server level, we could feel more secure that it would be more difficult to get around?

MR. BURT: Yes.

MR. LUCCHINO: Why is it that everybody pooh-poohs filters if they are as effective as you say they are when placed on the server level?

MR. BURT: Well, I think it has to do with two things. One, the first filters that came out three or four years ago relied on word blocking technology, and people, rightly so, made a lot of fun of them. They blocked out things like breast cancer, Fred Couples, and that sort of thing. Two, people tend to ridicule filters for ideological reasons. When you ask the people who are so against filters, "Well, what would a perfect filters look like? What would an acceptable filters look like to you?" they typically answer that there is no such thing, that no filter would be acceptable to them. So I think their reasons for opposing filters are more ideological than technological.

MR. LUCCHINO: Okay, thank you.

MR. WATSON: Can I add just one thing for the record? In addition to the written copy of my comments,¹¹ I would like to add that I brought along a copy of the expert witness report of our Vice President, Donna Rice Hughes,¹² in connection with the Loudoun County case on what minors can find on the Internet and also a short piece of ours on, “*Is Pornography Really So Easy to Find on the Internet?*”

CHAIRPERSON SIMON: We would be pleased to receive those into the record. Thank you both very much.

MR. LUCCHINO: Can I ask Mr. Burt one more question since he seems to be an expert on filters? At our library, which is a large urban public library, if we placed a filter on a server, which one would you recommend?

MR. BURT: There are several good ones: CyberPatrol, WebSense, Bess. There are a number of pretty good filters out there for that purpose.

MR. LUCCHINO: Reading your comments in *The New York Times*, you say “CyberPatrol: probably the best overall home filter.” That leads me to believe it is more appropriate for a home PC filter rather than a server. Is that inaccurate for me to read it that way?

MR. BURT: In general, that is a true statement that these products are intended more for home use, although this is changing: WebSense is more aimed at business; Bess is more aimed at schools. The thing with CyberPatrol is that it has about a dozen categories that you can select. I think “sex acts” is the one that most libraries select, and of course they would not select the “hate groups” category or the kind of thing that is political speech that you would not want to block, and I would not support blocking even from children in a public library.

MR. LUCCHINO: Can these filters be set to block chat room access?

MR. BURT: Yes they can.

MR. LUCCHINO: But I am told that there are all different kinds of chat rooms, for instance, the chat rooms you get to from a webpage. Unfortunately, I am woefully inexperienced in understanding how they work. Can you help us with that?

MR. BURT: That is correct. There is a separate thing called, “Internet Relay Chat” that chat rooms traditionally ran on. But you are correct, as of late there is such a thing as web-based chat, as well as web-based e-mail and Usenet and other Internet services are offered over the web. So then the challenge becomes, rather than just simply blocking out all of chat, for the filtering company to hunt and find web-based chat sites and block them as web-based resources. That is a little more difficult than just simply blocking chat.

MR. LUCCHINO: Would we be able to block chat on specific webpages?

MR. BURT: Yes.

MR. LUCCHINO: Okay, thanks.

11. Mr. Watson's written statement begins on page 136 in Appendix A.

12. Ms. Hughes' report begins on page 182 in Appendix A.

CHAIRPERSON SIMON: Thank you. Mr. Willard?

MR. WILLARD: One technical question. To what extent do any of the witnesses feel that domain restrictions, such as the “.XXX” proposal would apply to web pages?

MR. BURT: I think that is an outstanding idea, and I think that would go a long way to solving the problem. As I remember, and I am not a lawyer, that Justice O’Connor suggested the potential for zoning of the Internet, and I think that the long-term solution really is through zoning, so I think the .XXX domain is an excellent idea.

MR. WATSON: I would comment that we actually have a one-page piece describing what the Internet could look like, where the only legislative requirement is to enforce existing laws. There is a huge amount that could be done by voluntary decisions. On zoning, one thing that I find curious is that the only people who adamantly oppose it are the ACLU.

CHAIRPERSON SIMON: And you have a paper on that as well?

MR. WATSON: I can send one for the record.¹³

CHAIRPERSON SIMON: Would you, please?

DR. CHALLINOR: I think that would be valuable.

MS. LaRUE: I think if you look at the URLs, it would take someone virtually brain-dead not to be aware of the content of those sites when you get to all sex pedophilia. I do not know if there are any children present in here. Forgive me, but what I found in my search on “toys,” there is a list of things such as “teen fuckfest” as a site.

The problem, as Mr. Burt mentioned, is the original filters dealt with word searches and there was a lot of legitimate material blocked. But if you go to the address, the URL blocking, it would be much more effective in preventing children from accessing the hard-core material.

CHAIRPERSON SIMON: Further comments? Thank you very much. The morning session is over. We will reassemble at 1:30.

7. Panel 4: C. Ray Ewick, President, Chief Officers of State Library Agencies, Ann Symons, President, American Library Association, and Eleanor (Joey) Rodger, President, Urban Libraries Council

CHAIRPERSON SIMON: The afternoon session of our hearing, “*Kids and The Internet: The Promise and The Perils*,” is now in session. At the end of the scheduled panel sessions, we want to hear from those persons desirous of making a statement. Heidi Borton and Karen Gounaud have requested time to present statements.

I want to make it clear to everyone who feels an urgent need to say something in this regard that we welcome your comments. However, your comments must be brief.

¹³ This material was not provided to the Commission.

With that, we will turn our attention to the wonderful panel led off by Ray Ewick, the newly-elected President, Chief Officers of State Library Agencies. Mr. Ewick, please proceed.

Testimony of C. Ray Ewick

MR. EWICK: Thank you very much and good afternoon. I am Ray Ewick, Director of the Indiana State Library and the newly elected President of the Chief Officers of State Library Agencies (COSLA). Members of the panel, distinguished colleagues, ladies and gentlemen, thank you for the opportunity to testify on this issue under consideration on behalf of the Chief Officers of State Library Agencies.

Let me begin by saying that I do not consider myself to be an expert on the issue. However, perhaps having raised two boys, having four grandchildren ranging from 13 to 5, and having spent several years assisting a state in building its network of on ramps to the information highway, I do have a familiarity with the issue and understand some of the passion surrounding it.

Although the organization of COSLA, which just celebrated its 25th anniversary, has not formally established a position with regard to children and the Internet, we have had several long discussions. It should not be surprising that an organization of the top library officers of 50 individual and unique states has learned to respect our individual differences and sought to find common ground without imposing majority will. We have learned to investigate and to debate energetically, yet to seek balance that honors each state's ability to support worthy common goals and allow diverse local implementation.

My testimony is to ask that in your deliberations you, too, seek balance. One of the most difficult things for me as a young parent was to learn to allow my son to play in the front yard, knowing that in an instant he could dart in the street and be hurt or killed. I wanted to build a fence or keep him in the house, but I knew that I would not always be there and he could someday climb that fence. And I wanted for him all the freedom and potential this country encourages. Truthfully, I watched him. I let him out under supervision. I tried every cliché known to parents to teach him not just the dangers of the street but the values of good character and trustworthiness so that whether I was around or not he might choose the right action on his own. It did not totally eliminate the danger, and I suspect he forgot a few times, but as I have seen him instruct his son, I do know he learned well.

Indiana is not unique among the states in the development of a telecommunications infrastructure utilizing the Internet as an educational, community information tool. State government, schools, libraries, higher education and community networks are developing substantial content to be able to deliver to citizens on demand via the Internet. It is happening today.

First, Access Indiana has free information from more than 65 State Agencies, including a special Teaching and Learning Center for parents, students and teachers. There is a special area dedicated to Child Safety on the Internet.

Second, the Indiana State Department of Education site provides interesting content and a safe approach.

Third, the Indiana State Library and the Indiana Cooperative Library Service Authority, with its 800 member libraries has developed INSPIRE, a project that for \$1 million provides all Indiana residents with access to over 1800 full text periodicals from library, school, or home via any Internet terminal. It includes links to safe sites for kids such as those selected by the American Library Association. We anticipate that Hoosiers will download almost 9 million pages this first year. That is 1.5 pages for every resident in the state, and the cost is slightly over 10 cents per page.

The future potential of the Internet for modeling and simulation in 3-D: for distance education; for video (store and forward) and for things we have yet to imagine, requires us to explore and experiment with the technology so those grandchildren can pursue the potential within them. It is important that we do not handicap their future with false restraint driven by our fear.

The dangers of the Internet, like those of the street, cannot be eliminated by mechanical intervention of filters or by legislation. At the same time, we have to realize that education, acceptable use policies, and good intentions will not totally protect our most valuable assets, our children. So I would ask that you realize states and local communities, librarians and trustees, as well as parents, are concerned and are at work. A recent survey in Indiana indicates that 98 percent of the local libraries have adopted acceptable use policies, and about 30 percent have chosen to put filters on at least one terminal for use by children. I hope that your investigations will result in shared information that can be used at the local level so that communities will be able to grow their children as safe as possible to be all they can be.

Thank you.

Questions and Answers

CHAIRPERSON SIMON: Mr. Ewick, thank you very much for your testimony. Would the Commissioners care to comment? We congratulate you for such a non-controversial statement.

We will now hear from Ann Symons, President of the American Library Association. Welcome, Madam President.

Testimony of Ann Symons

MS. SYMONS: Thank you very much, Madam Chairperson. On behalf of the American Library Association, I appreciate the opportunity to appear before you today.¹⁴ Let me be frank. Much attention has been paid in the past several years to the potential perils of the Internet. Far less public attention has been given to building the promise of the Internet: providing resources for the development of quality content; assuring that all kids have Internet access; and developing Internet literacy for the generations that will live in a global information society. To be sure, there are dangers that we must address if this new medium is to serve the needs of all children. But I firmly believe that the more we build the promise of the Internet, the more we crowd out and dilute the perils.

I do acknowledge that we must find answers to questions about child safety on the Internet. Answers that will both allay parental fears and not make library staff members responsible for deciding what each and every parent wants his or her child to see or not see. While filtering may seem an obvious solution, most of us know it is a quick fix at best. The best and ultimate filter is the human mind. Knowing how to make informed decisions about what we choose to see, hear and view is an essential skill in the information age—whether in the library, at school, at work, or in the privacy of your own home.

Just as parents have to guide their children in what they can and cannot watch on television, buy at the mall, and do after school, they must learn to teach their children what they feel is acceptable for them to view on the web. The opportunity for librarians to work as partners with parents by teaching

¹⁴. Ms. Symons' written statement begins on page 149 in Appendix A. Additional material submitted by Ms. Symons' begins on page 155 in Appendix A.

them to guide their children in using the Internet is one of the most exciting opportunities we have today.

Our children are growing up in a global information society. Kids who are not logged on will not be literate in the 21st century. They need to learn the critical viewing and information skills that will lead them to make good judgments about the material that they encounter on the Internet. They need to be able to assess as well as access information—to distinguish between that which is useful and that which is not. We do not help children when we simply wall them off from information and ideas that are controversial or disturbing. If they are to succeed in the information age, they must learn to be discerning users of information.

While parents and other caregivers are primary, librarians have a key role in helping all children to have safe, educational, and rewarding experiences online. Librarians do this by promoting access, quality, content, education, and local control. But a key part of each is child safety. One of ALA's earliest and most popular tools. I refer you to the safety tips from ALA's *Librarians' Guide to Cyberspace for Parents and Kids* <<http://www.ala.org/parents/greatsites/guide.html>> and to the other material that will be attached to our testimony. In cyberspace, it is difficult to find the good stuff. ALA has established a national reputation as a leader in promoting quality online resources, particularly for children. ALA also has a variety of tools to help librarians in their educational role. Many libraries offer Internet classes and training.

The debate over Internet access will continue for many years. I believe that education, time, and experience will help to resolve many of the tough issues we are struggling with today and to find that balance. But the debate must be resolved in such a way that protects all our rights and includes all our information needs.

Protecting the First Amendment in the digital environment is worthy of our time, our best professional efforts, and our financial resources. Because without that bedrock protection, the Internet will not meet the promise that we all hope for. We must not let fear and exaggeration over the perils of the Internet limit the promise of this new information tool for if we do, we stand to limit the future of today's and tomorrow's children. Thank you.

Questions and Answers

CHAIRPERSON SIMON: Thank you, Ms. Symons.

MS. GOULD: You talked about filters being a 'quick fix' at best. While we search for better solutions, what objection do you really have to an interim 'quick fix' at best if the local decision is that they would like to have filtered as well as non-filtered computers?

MS. SYMONS: Local decision making is what libraries are all about, and if that is what local libraries choose to do in the interim, that is entirely appropriate. I believe that filters offer a false sense of security to parents, a sense of security that children will not be able to see things that are objectionable to them.

MS. GOULD: Thank you.

DR. CHALLINOR: That is a good answer. I want to ask a question. If I am a parent and I bring my nine-year-old son into the library and say that I want him to have access to everything, that I want him to be able to go online everywhere and that I want your help in getting him there, no matter what he is looking for, would you do it?

MS. SYMONS: I think what I would do is what librarians do best, and that is to guide a child to the best things that are available. I would sit down with the child, and I would ask what his interests are. I would try to find him things that I knew matched his age and his interests.

DR. CHALLINOR: Would you talk to the parent?

MS. SYMONS: I would talk to both of them. I think that is one of the things that librarians do best: they guide people. Our role is to connect people, whether they are children or adults, with the information they need. There are many inappropriate things out there for children. We are not making the case that everything on the Internet is appropriate for children. But I think our role is to help children find that information which is most appropriate for them at their age and at their interest level.

DR. CHALLINOR: I am just trying to get to the point. In your opinion, how much of a librarian's job is it to protect the child against what you think might be dangerous?

MS. SYMONS: I think librarians have a tremendous responsibility in the role of education, and I think that is where we need to focus our energies.

MS. BINGHAM: I am from Louisville, Kentucky. In our area we have a number of schools sharing facilities with public libraries, that is, the public library has been built-in. In those instances, there is much interest in limiting the interactivity of the younger people on those terminals, at least during the school hours. Do you have a position on limiting the interactivity of the children as opposed to filtering in the wider response?

MS. SYMONS: I have worked in a school for 26 years, and I work in a very technology-rich school district. I am in a high school and, in my library alone, we have 35 terminals connected to the Internet. We do not filter, and we have done that deliberately. We believe that there is a very definite educational mission to schools. There are a lot of things that will never be appropriate for kids to look at on the Internet at school.

MR. ANDERSON: You used an unusual word, 'peril.' Peril is a pretty serious word. You are talking about promise and peril. So to use a word like peril, you must have some very specific perils in mind that we should be concerned about for children. Specifically, what are those perils that you are concerned about?

MS. SYMONS: I think that librarians have never condoned information that is illegal. I think that is a peril. I think that I picked up the word 'peril' from the title of your hearing, "The Promise and the **Perils.**" I think that you must have also had very specific concerns.

MR. ANDERSON: Which illegal information are you talking about?

MS. SYMONS: Child pornography, obscenity, that which the First Amendment does not provide protection for.

MR. ANDERSON: So you feel that somebody has a responsibility to protect children from that information?

MS. SYMONS: I think we all do. I think the law enforcement community does. I think the library community does. I think parents do. I think citizens do. Material that is illegal is not protected.

DR. GRIFFITHS: I have a question. I would like to ask if you are aware of any instances where librarians have reported the fact that people using library computers are accessing illegal material?

MS. SYMONS: I think that one of the problems in this whole area is that it is difficult to ascertain what is illegal. I think that we need better law enforcement in this whole area. I cannot stand over someone at the terminal who is looking, for instance, at the centerfold of *Playboy*, and say, "That is illegal. You may not look at that."

DR. GRIFFITHS: But there are also areas that are clearly –

MS. SYMONS: I think there are times when librarians can call the cyber tip hotline and report sites that they believe to be illegal.

DR. GRIFFITHS: I am asking because I do this, as incidents occur, at the University of Michigan. We, like any large organization, have our share of incidents involving pornographic material that constitutes evidence of felony. We have had students who have actually run pornographic websites. We work very, very closely ...

MS. SYMONS: I think local libraries should work with the local law enforcement as well.

DR. GRIFFITHS: Is there any reporting within the library community that this is being done?

MS. SYMONS: You know, I look at a lot of literature, and I know that there are a lot of appropriate sites out there for children. I think that one of the things we hear, and one of the things talked about this morning, is that there are a lot of adults looking at adult material on the Internet. I hear much less concern about children looking at inappropriate material.

MR. ANDERSON: Ms. Symons, I have a question for you. This morning it was fairly well established that a picture of a child in a sex act is against the law in any of the 50 states. All of the attorneys agreed to that. That is a felony. That is punishable in every state in every county.

MS. SYMONS: I do not disagree with you.

MR. ANDERSON: What, very specifically, is the position of the American Library Association on that issue?

MS. SYMONS: That we do not support illegal material on the Internet.

MR. ANDERSON: I am not sure I understand. You are against illegal material on the Internet?

MS. SYMONS: Absolutely. The First Amendment does not protect material that is illegal.

MR. ANDERSON: What should a librarian do?

MS. SYMONS: I think that a librarian who finds a website that they suspect is obscene or illegal, like child pornography, can report it to either of the 800-numbers that we have been given. We try to give this information to local libraries so they have it as well.

MR. ANDERSON: So you feel the librarian has that responsibility and authority?

Have you written out those policies on how to handle illegal information? I know you have sent out a lot of policies and a lot of opinions of the various committees, including Intellectual Freedom. Have

you sent out specifics saying, “These things are illegal. If you see something illegal, here are some ways to deal with it and here is what you might consider doing?”

MS. SYMONS: I think if you see something you suspect is illegal, but a librarian is not the person determining what is illegal. A judge is the one who determines what is illegal and not illegal.

MR. ANDERSON: So the answer is, “No, you have not done that?”

MS. SYMONS: We do provide in our public information the 800-numbers, along with safety tips.

CHAIRPERSON SIMON: Ms. Symons, we just heard from Ray Ewick that about 30 percent of the libraries in Indiana have filters. Would you have any idea of that percentage nationwide?

MS. SYMONS: Absolutely. It is in the ALA material that you have. I am sorry but I do not have a copy in front of me. On a national level, I believe, about 85 percent of libraries are not filtered; and about 15 percent are filtering one or more terminals.

MR. ANDERSON: How many a year ago?

MS. SYMONS: Carol Henderson, do you know the answer to that question?

MS. HENDERSON: This was the first time we asked that question.

MS. SYMONS: So this is the 1998 survey of public libraries.¹⁵ We will ask that question again.

MR. ANDERSON: Do you think you might determine a set of helpful guidelines for librarians who witness illegal material on the website?

MS. SYMONS: I would think that would be very appropriate.

CHAIRPERSON SIMON: Where does this say 15 percent?

MS. SYMONS: On the back, Internet use policies.

CHAIRPERSON SIMON: Thank you. So Indiana is just a little off the beaten path at 30.

MR. EWICK: May I answer? That is a recent survey. Ninety-eight percent of the libraries reporting have acceptable use policy. And that policy does address that it is illegal to view certain materials on the Internet and that there are penalties involved, like being banned or denied access. Over 90 percent of the screens are in viewable range of the librarians and staff. Again, how well it is enforced is a local issue. But, in Indiana, there is a pretty clear indication that librarians are concerned and are taking steps to protect the children.

MR. ANDERSON: Your analogy to the street is that there are strict ‘rules of the road’ for the Internet that should be enforced?

15. U.S. National Commission on Libraries and Information Science, Moving toward more effective public Internet access: the 1998 national survey of public library outlet Internet connectivity; a report based on research sponsored by the U.S. National Commission on Libraries and Information Science and the American Library Association and conducted by John Carlo Bertot and Charles R. McClure, Washington, DC: U.S. Government Printing Office, 1999, pages 12-13, <http://www.nclis.gov/1998plo.pdf>.

MR. EWICK: Yes.

CHAIRPERSON SIMON: Thank you, Ms. Symons. We will now hear from Eleanor Jo (Joey) Rodger, President, Urban Libraries Council. In Phoenix, earlier this week, Ms. Rodger began her speech with a poem. Do you have a poem today?

Testimony of Eleanor (Joey) Rodger

MS. RODGER: You know, I almost did that. Then I thought the only person who would understand is the Chairperson; everyone else will think I am wasting time. I am sorry to disappoint you. We can come up with one at the break if you like.

I come to you as the President and Chief Staff Officer of the Urban Libraries Council (ULC). The Council is an organization composed of approximately 150 large public libraries that serve metropolitan communities. In preparing for my time with you today, I asked them a series of questions. We have a directors' e-mail list, which, in my book, is the best single thing about the Internet. I can reach all of the directors quickly, and they get back to me quickly.

I thank you for the opportunity to share our thinking. And, particularly, I thank you for your concern about America's children. It is a concern that we in public libraries share—not just a concern that bad things do not happen to them, but a commitment to them that their interests and explorations, while varied and diverse, are ultimately nourishing, contributing to their development as joyful, wise, caring and respectful youth and adults.

Thank you also for this opportunity to share a portion of the thinking and strategies going on in American urban public libraries as librarians work with parents, teachers, and civic leaders in their own communities to become skillful crafters of community strategies to amplify and extend what is helpful, and minimize what is destructive, about this amazing communication tool: the Internet.

The ULC has not created policy recommendations in this area. We have not felt the need to do so, nor do we feel it is appropriate because America's public libraries are part of local government. I believe it is fair to say that our members share a belief that those who pay for public library service should create and control the policies that shape it.

Public libraries are local. As you know, our wonderful American political system has three distinct layers of government—federal, state, and local. The public library is an institution of local government, created or allowed by varying legislation in each of the 50 states. Differences among these legislative foundations determine how libraries are funded and provide various other kinds of guidance, but they are uniform in creating structures answerable to local government.

Public libraries, of course, operate within the structure of various federal laws and both cherish and enjoy the mandates and gifts of the Constitution and the Bill of Rights. The policy environments of public libraries—while needing to be congruent with federal and state law—are local. Library boards or local governments create and implement policies on a wide variety of issues, just as local school boards do.

Strategies. The Urban Libraries Council has a deep respect for the skills, creativity, and knowledge of the trustees, administrators, and elected leaders who provide policy leadership for local public libraries. Our member libraries and many other public libraries in the country have developed a number of strategies to maximize the benefits of the Internet for children and youth. Most of them are proactive. They include Internet classes for parents and children together; first screen guidance to selected websites; handouts, pamphlets, bookmarks, that sort of thing, to help parents understand

basic safety on the Internet; required parental permission for Internet use; filters in place at workstations specifically designated for children; and strategically placed workstations so adult presence is never far away.

Some libraries create frameworks which allow intervention when what has been deemed inappropriate use of the Internet occurs. Users may be asked to sign agreements not to display inappropriate materials prior to using the Internet at the library. Signs may be posted at workstations notifying users that some material available on the Internet is illegal and may not be viewed using library computers. Libraries may state that such use will result in penalties, ranging from asking the user to select new materials to being asked to leave the library.

In an informal survey of ULC member libraries, there was no single report of Internet-related instances of pedophilia originating at library workstations. I asked that question because in your public record notice you indicated that was a major concern, and no one reported that there was any one instance that was Internet related at the library.

The ULC shares deeply the Commission's concern that all children in America have access to the gifts and wonders available on the Internet, while being protected from its dangers and hidden confusions. We believe that the most effective and appropriate actions which can be taken are those rooted not in fear but in confidence. Confidence in America's parents to guide their children's learning journeys in cyberspace as they do in their geographic communities. Confidence in America's libraries to support parents by providing accurate information about how cyberspace works, to support kids in making use of the Internet's many gifts by offering clear paths to good websites, training classes and safety tips. Confidence in local government to be wise, flexible and inclusive in its community discussions about appropriate uses of this brilliant new tool for learning and communication. And, confidence in the governments of the several states and the federal government to develop and enforce laws which enhance the development and well-being of all our children.

The Commission can become a valuable resource to these various individuals and institutions by conducting research on effective strategies for enhancing the positive use of the Internet by children, by reminding Congress that public libraries in America are essentially, and by design, local institutions, and by using its national pulpit to support parents in their roles as their children's best guide to this new world of information and communication.

As I listened this morning to the testimony and to the comments and questions from the Commissioners, I thought these are the same concerns and questions of every parent. It would be immensely helpful if the Commission chose to obtain or use some of its resources to do a research kind of publication.

We are grateful for your concern for the children of America. We thank you for this opportunity to share our understanding for where urban public libraries can help, as partners for parents and participants in community discernment in decision making. Thank you very much.

Questions and Answers

CHAIRPERSON SIMON: Thank you, Ms. Rodger.

DR. GRIFFITHS: My comment is directed to Ms. Rodger since her organization represents urban life. There is a segment of the community that we have not discussed since Mr. Vachss made his presentation this morning: the problem of runaway children. Those are the children who may find refuge in the urban city public libraries.

To what extent do you have a way of helping those runaway children and teenagers deal with their needs? Certainly they have needs and, certainly, they have to find access to resources of one kind or another. But they are also very vulnerable to the negative elements that we are basically trying to protect them against.

MS. RODGER: As you created that picture of the kids for whom you have particular concern, I was thinking of a visit I paid to one of my libraries—I think of them very possessively; they are not my libraries, they belong to the taxpayers who fund them. A ULC member took me through the Young Adult Area and said, “We have many homeless kids for whom this is the safe space. They are here all day, every day. The staff interact with them and help them find the resources they need.”

I suspect these children and teens are vulnerable. But I think they are less vulnerable in the library than they are on the street. I think one of the things we can do is to offer a safe haven and, always, a helpful adult if they decide that this life on the street is not working for them.

MS. GOULD: Anyone can answer this question, or you can all answer. From today’s testimony we have heard much talk about local choice, parental rights, and parental permission. We know that there will be legislation forthcoming in the congressional session. It may be another version of Representative Istook's amendment or of the bill that Senator McCain addressed with Representative Istook in terms of mandatory filtering to have access to federal funds. Is there room at this point for compromise on the part of the American Library Association, the Urban Libraries Council, and COSLA? A compromise could be a mixture of what is already in existence in many libraries with filtered and unfiltered terminals and that all libraries must have an acceptable use policy. How would you feel about that?

MS. RODGER: I am happy to speak as an individual. I go back to where the money comes from. One of the rules of being a grown-up is that if you accept money, you accept conditions. This is a personal opinion, not the opinion of the ULC.

Commissioner Bobby Roberts of Little Rock, Arkansas, said to me one day, “I run my library one day a year on federal money. If I disagree with what the federal mandates are that go with that money, I can simply not accept the money.” I think that is a choice. Everyone wants money without strings. At every level of government they want it given to them, and they do not want to be told what to do with it. I think that is unrealistic. And, yet, the battle will always be fought to have as much prerogative as we can possibly preserve over any money we get. Whether compromise is possible or not is something ULC would not address because we would not take a policy position.

MS. SYMONS: We have taken a policy position on this matter. Our policy is one against filtering. I cannot speak for the 170 Council members of the American Library Association. It would have to be that body who would make the change. I will tell you that when this policy was passed, 168 voted for; 2 against.

MR. EWICK: The one thing I was trying to get across in my testimony is that the Chief Officers of State Library Agencies represents many different groups. We are doing a number of different things, and we very definitely work for what they call ‘officials.’ We recognize that it is not our library, it is the people's library, and we work with them.

The Indiana legislature has required that we have acceptable use policies. I think that is probably a good idea, but I am not sure. I do not see where that requires a compromise. I think that if filtering is required, we are going to support it. The evidence has been very mixed on it, at least from what I know, which is limited. It is like everything else. Most librarians spend a lot of time on many

different issues. Rather than scrub the final thing out of the glass, you are trying to pull it up with all these good things; enabling all the good services that the homeless child needs, helping them find that job, helping them get the counseling they need, helping them in so many ways that absorb us all. It certainly keeps us busy most of the time doing the good things that we need to do. I think the Chief Officers, although I cannot speak for all of them, are very practical people. We want to be here today, and we want to be here next year, to assist these children and young adults the best we can. And that means if the people speak through their elected representatives that this is the case, then we are going to support and work with it because there are so many things we can do to improve the lives of those kids with information services. And that is what we intend to do.

CHAIRPERSON SIMON: Thank you. Mr. Ewick, does wanting to be here today and tomorrow for those children include not fighting some proposed legislation in the Indiana legislature that would require filters? Would you be able to speak out against that?

MR. EWICK: My job is to provide the best advice I can. Their job is to make the decision. We will live with that, and we will implement it to the best of our ability.

MR. ANDERSON: Just for the sake of statistics. I believe it was stated that 15 percent of libraries use filters. Of the 168 people who voted against that, I assume all 168, none of them have filters in their libraries?

MS. SYMONS: I think there were people there who had filters in their libraries.

MR. ANDERSON: They use filters, but they oppose filtering some.

MS. SYMONS: I think what we are talking about is a difference between what happens at the local level and what the ALA sets as the standard to which we try to aspire for our members. We set what we think of as the best practices.

DR. CHALLINOR: I want to thank Ms. Rodger for her suggestions. We are going to write a report. We think this is enormously important, and that our report should not just go out and be frittered away. So any points you wish to make, we would be very happy to hear.

DR. GRIFFITHS: One of the legitimate concerns that many people have is the fact that the cyberspace contains so much un-validated information, for example, medical information. The medical profession is increasingly concerned about the information on the Internet that reads as official medical information that is, in fact, inaccurate. How are you, as librarians, going to educate the user community to the fact that there is information of that nature out there?

Ms. Symons, as a parallel to this, you talked about helping young children find appropriate materials for their age. I am concerned about how to deal with the increasing need to validate sources of information on the web. How does that fit into the actual topic we are talking about today?

MS. RODGER: I am happy to speak to that issue, again as an individual. I think you have put your finger on an area where our profession should be spending a great deal more time and attention than they are. I think it is appalling that one public library I know puts a sign out on the Internet terminal warning that content may be wrong, harmful, illegal, et cetera. Help me to understand why you are providing this conduit to information you cannot stand by. I think that we, as a profession, have made a high ground out of not evaluating the information because we have been able to depend on the publishing intermediaries.

It has been a true puzzle to me why librarianship has not staked out validation and reliability and done some kind of the L-word, “labeling,” that would help. I thank you for bringing up this problem. It is a huge issue for us, and I think that is where we should focus our skills.

MR. ABRAMSON: I assume that the ULC exists outside of ALA because it was felt they face unique problems and solutions offered by larger libraries.

MS. SYMONS: Yes.

MR. ABRAMSON: If that is not true, tell me. But I assume that is right. Many of your members also belong to the ALA, individually and otherwise?

MS. RODGER: Yes. I am a life member.

MR. ABRAMSON: That allows me to suggest that, maybe even using the word or the term more loosely, there should be different uniform policies for larger urban libraries.

MS. RODGER: I think that the urban public libraries are informed by discussions that happen within ALA; that may help shine light on various facets of their decision making.

I think people are deeply aware that the place they need to consult, and be congruent with in terms of policy format, is their local governments and local communities. That is why in my testimony I stated that I believe they would agree that it is not only not necessary for ULC to make policy in this area, it is not appropriate. We deeply believe that trustees, directors, and other leaders in local public library discussions need make the best possible decisions for their communities. Our job is to inform that discussion and not, in any way, dictate what the outcome should be.

So with all respect, we will probably not be making uniform policies. The way it happens at ULC is that the directors say, for example, they need a policy for naming meeting rooms or for Internet use. They ask that current examples be sent to them. Then they sit down with their local boards and senior staff and craft something that may have been borrowed from here or there because it is well stated or because it is something they agree with. But it is never copied directly.

MS. ROGERS: Without recommending one, do you think that large urban libraries should have a different policy than smaller libraries?

MS. SYMONS: No, not necessarily. I want to go back to the issue of quality content because I think that is one of the most important issues we have to address as a library community. In Ms. Rodger’s testimony, she talked about those ‘front-end interfaces’ that we use on websites to our communities. I mean, the librarians have the skill and the knowledge to be able to select the good stuff off the Internet for whatever-age people. I think a prime example of that is ALA’s 700-plus great websites for kids.

When you talk about the differences between large and small libraries, in the largest urban public library you may have to have librarians who can do that 700-plus sites for their own community. I think this is an area that we, as a profession, need to stake out. We know how to select good quality material, no matter what format it is in, and provide that quality material to our patrons.

MR. EWICK: In relation to that, one thing is that OCLC is cataloging the Internet, dubbed the “Core.” It is a monumental task but as opposed to being able to put in ‘snake’ under a search engine and having 2100 hits. I am not sure I can view that many hits, and I am not sure we are doing our patron a service by giving him that many. If we can get some reliable information, some places where

they type in ‘snake’ and get 20 hits (but it is the San Diego Zoo), then we have done a real service for the patrons. I think that is the direction in which we are moving.

CHAIRPERSON SIMON: Any comments or questions? I certainly thank the panel for their enlightening presentation.

8. Panel 5: Lawrence Ottinger, Senior Staff Attorney, People For the American Way Foundation, and Gene Crick, President, Electronic Frontiers – Texas

CHAIRPERSON SIMON: We are going to immediately proceed with our fifth panel. Could Lawrence Ottinger, Senior Staff Attorney, People For the American Way, and Gene Crick, President of Electronic Frontiers-Texas, please come forward.

Testimony of Lawrence Ottinger

MR. OTTINGER: Good afternoon. I know you are reaching the end of the afternoon, so I will try to be lively and informative. I want to thank you. I want to request permission to submit final written comments within 30 days of this hearing,¹⁶ but give our oral testimony today.

CHAIRPERSON SIMON: We will be looking forward to receiving that information. Thank you.

MR. OTTINGER: On behalf of our over 300,000 members across the country, People For the American Way Foundation (“People For”) would like to thank the Commission for the opportunity to present this testimony. We were founded in 1980 by a group of civic and religious leaders. We are a national civil liberties and civil rights organization dedicated to promoting and defending fundamental American values and freedoms including freedom of speech, public access to valuable information, diversity, and tolerance.

For many years, People For has researched and reproduced reports on many attempts to improperly censor books in public libraries, including books by J. D. Salinger, John Steinbeck and Maya Angelou which have consistently been rated among the top ten books for censorship.

While the Internet adds both unique opportunities and challenges, many of the local conflicts today over Internet materials in public libraries are really extensions of attempts by a vocal few to impose their values and choices of books and other materials on the rest of the community.

While legitimate concerns should be addressed and I believe are being addressed, government censorship of otherwise available constitutionally protected and valuable information because a few people disagree with the views and content of those materials is as wrong in the Internet context as it is in the book and paper collection.

Just briefly, we served as co-counsel and co-plaintiffs in the American Library Association lawsuit in which a nearly unanimous Supreme Court struck down the Communications Decency Act; as well as participating in White House Internet summits that focused on kids online and concerns about user empowerment. And, perhaps most importantly for this hearing, we are co-counsel along with the law firm of Hogan and Hartson for a civic group, called Mainstream Loudoun, and individual parents and residents in Loudoun County, Virginia, where a lawsuit is pending challenging one of the most

¹⁶. Supplemental material from Mr. Ottinger and People For the American Way Foundation begins on page 162 in Appendix A.

restrictive public library Internet use policies in the nation, a case that I think will be very instructive both in terms of the legal parameters and policy considerations that you are looking into.

In an initial ruling, Judge Brinkema of the Eastern District of Virginia has established a significant legal precedent, applying the highest level of First Amendment standards to public library decisions to exclude publicly available information on the web based on the content of that information.

Now, in non-lawyer words, that strict scrutiny standard means that such content-based restrictions must advance a compelling government interest in a direct and material way, and they must be narrowly tailored to achieve that interest so as not to infringe on the rights of the public to valuable information.

As a first brief point and as an overall perspective, I believe the promise of the Internet, particularly for young people and future generations, is tremendous. Indeed, being computer and Internet literate has become almost an essential skill for children growing up today.

Because many people do not have and cannot afford computers or Internet access at their home, public access to the Internet through public institutions such as schools and libraries has rightly become a top national priority. In this regard, I hope the Commission will note the importance of the role of public libraries in providing public access to this essential resource, and ensure that its recommendations encourage such public access and do not in any way impede adults and minors from the enormous benefits of these resources.

Along these lines, while we look at addressing legitimate concerns, it would be a tremendous mistake and disservice to children themselves to allow discussion of concerns to overshadow the real promise and opportunity of this medium.

The last thing we want to do is scare off and deter communities or parents who may be uncomfortable with the new technology from educating their children about how to use this resource and how to develop the critical thinking and judgment skills necessary to deal with such concerns and to cope with the real world.

In this regard, educating parents as well as children about the Internet and empowering them to make decisions about how best to use this resource comprise an important role and recommendation for public libraries and library managers with respect to Internet use.

With this said, the Internet does bring with it legitimate concerns that need to be addressed, including ones that have been mentioned—that among the vast materials available on the worldwide web, for example, are some false, misleading, hateful, and disturbing content.

I would like to note here, though, the difference between the broadcast medium and the Internet, which the Supreme Court noted very forcefully in providing the highest level of First Amendment protection for what they describe as the electronic town hall. Information doesn't just stream into your home over the Internet. Instead, people consciously choose to find the information and, as both sides agree to in the Supreme Court case, information rarely shows up by accident.

It is intentional. People have to intentionally access information, and in that regard education, including education and guidance from librarians, will be very important in showing people how to find the most useful information and how to avoid unwanted information.

So the issue in terms of these concerns is how do we address these concerns in a way that preserves the historic role of public libraries as voluntary centers of public learning; that promote and safeguard

the role of libraries in providing public access to valuable and diverse information and ideas; that respect the privacy and confidentiality interests of library patrons; and that leave the ultimate decision to adult patrons, parents and families as to what materials to read in the public library consistent with individual and family values and circumstances?

We believe that, as demonstrated by most communities today, public libraries can address legitimate concerns about Internet content through policies that include Internet education, acceptable use policies, and guidance toward the use of lists of recommended children sites, that, for example, the American Library Association discussed earlier.

I would like to talk a little about Loudoun County since I think that would be instructive. Loudoun County's "Policy on Internet Sexual Harassment" provides an illustration of how not to handle Internet use situations in the public libraries. The library board policy was adopted by a 5-4 decision.

First of all, the Library Board never presented any information showing that there was even a significant problem related to unfiltered Internet use in the public libraries before adopting their policy.

To the contrary, the library director who reports to the board, and administers the libraries, investigated the experience of 16 Virginia public libraries with the Internet and found that libraries offering unfiltered Internet use had not experienced problems with pornography or harassment.

Only one library reported a single complaint by a patron who viewed allegedly pornographic material on a terminal being used by another user, and since that time the library has resolved that situation by installing privacy screens so that there will not be inadvertent viewing of material by passersby.

Second, rather than positioning the Internet terminals away from other patrons and staff or using privacy screens or screensavers which will return a screen back to a default page after a certain amount of time, in order to avoid accidental exposure to unwanted material by other library patrons or staff, what the library board did in its policy directly undermined any such interest by actually requiring that terminals be located in open and full view of library staff and requiring the library staff to actually monitor and stop any patrons from viewing prohibited material under threat of eviction and prosecution for criminal trespass.

In addition, as Mr. Burt, who testified earlier today and also testified for the library board in our case admitted, a policy that requires library staff to act essentially as cops and look over patrons' shoulders infringes on patron privacy and confidentiality and will chill patrons from viewing sensitive health or other personal information out of fear of stigma and embarrassment, even though the materials are valuable, legitimate, and non-pornographic.

Finally, since I know that some of your previous speakers may have promoted Internet blocking software as a potential solution, I wanted to clarify this issue and point out some of the constitutional and policy issues as illustrated by our case in Loudoun County.

First, as a clarification, contrary to the assertions of the defendant in our Loudoun County case and some pro-censorship groups, the issue in our case and for those public libraries who want to use filtering is not between filters and no filters, but between mandatory filtering and optional filtering.

The Loudoun County policy requires that blocking software be used to block out certain materials for all patrons at all times, adults as well as minors. Our client, Mainstream Loudoun, actually had proposed an optional filtering policy to the library board which it rejected. That proposal would have

allowed adults to decide for themselves and parents and guardians to make decisions for their children concerning whether or not they would use blocking software.

For many reasons which are set out in briefs that we filed in the case which you can find on our website, Loudoun County's mandatory blocking software is unconstitutional and cannot meet strict First Amendment standards.

Just so you know, I will submit the judge's first opinion so you have that, but we are expecting any day an opinion from the court on our motion for summary judgment against the library board policy which we expect to strike down this policy as unconstitutional.

As demonstrated in our case, even what defendant described as “the best of the worst” software has blocked substantial amounts of valuable and clearly non-pornographic information, including websites for the Quaker Society of Friends, the American Association of University Women, the Heritage Foundation, and a site for Beanie Babies, as well as many sex education as well as gay and lesbian sites.

The library's own tests of the software found that 67 percent of blocked sites should not even have been blocked under the library board's own policy, and lots of other material also got through this best software. Again, as conceded by Mr. Burt and the software company, no software can adopt a legal standard and make decisions as to what are legal versus non-legal materials.

And as the court preliminarily found also, just to let you know, requiring patrons to request some of these sites to be unblocked at a later date, even if they are acknowledged to be wrongly blocked, does not solve the constitutional problems for the people who need the information right away, and people cannot be made to request available information that they otherwise have a right to.

Let me just conclude with bullet points on what we think should be principles that would make for a great report. We urge you to include the following in your recommendations for managers:

1. The promise of the Internet for young children today should be stressed and should not be clouded by discussion of how to best address concerns.
2. Policies should be based on solid evidence of real, proven problems, not speculative fears or threats.
3. Policies should be narrowly tailored to address any concerns and should be done in the least restrictive method with respect to patron access to constitutionally protected information. Adults, parents, and children, not local government officials or library staff, should decide what library patrons can read and learn in the public library according to individual and family tastes and values.
4. Local government officials and library managers should not usurp the role of parents, guardians and families in deciding what children can read in the public library. Librarians should continue to serve their very important role as a resource to educate and provide guidance to adults, parents, and children on the Internet. They should not be required to look over patrons' shoulders and tell them what they can and cannot read in the public library.
5. Internet policies should protect the privacy and confidentiality of library patron's access to materials of their choosing. Policies regarding children should not reduce adults to view only what is fit for children and should distinguish between younger children and older more mature teenagers.

6. Behavioral problems involving the Internet such as disturbing or harassing other patrons or staff should be dealt with by behavioral policies, as is done when such conduct occurs unrelated to Internet use.
7. Internet education, acceptable use policies, guidance to recommended sites, computer positioning, privacy screens, time limits, and other similar policies should be recommended to address concerns about Internet content and the display of Internet images in the public library.

Thank you, and I apologize for going over my time.

Questions and Answers

CHAIRPERSON SIMON: Mr. Ottinger, thank you for your definitive statement for Loudoun County and others.

MR. ANDERSON: You use interesting language—pornography, pro-censorship—to describe people that have a different point of view from you. It reminds me of pro-life and pro-choice, people pick whatever they think is the most applicable. Getting through that, you talked about the Mainstream Loudoun and alternative blocking system, filtering, and unfiltered access.

MR. OTTINGER: They proposed.

MR. ABRAMSON: Is that the name of the organization?

MR. OTTINGER: Yes.

MR. ANDERSON: You had me confused. I want to ask a few questions. If that library board would have proposed alternative blocking system instead of what they did, we do not have to go through the detail of it, would People For the American Way have opposed that deal? Would it have opposed that board's action?

MR. OTTINGER: You know, I do not think we would have been involved in that case. Our clients proposed an optional filtering policy with unfiltered Internet access as a default. We have not taken a position on that optional filtering issue. We think it should be optional if there is going to be filtering.

However, what this case shows, and I think what is helpful for the Commission and the reason that I made the legal points and arguments, is a framework that local communities as well as the federal government are all subject to the Constitution, every one of us here, and those parameters. It will be educational for people to look at what Loudoun County did in terms of mandatory blocking software and requiring librarians to review what people are looking at in the library. All of these elements of this policy will be, I think, very important for the Commission to look at as they come up with their recommendations.

MR. ANDERSON: The answer is either I don't know, or we may not have entered a lawsuit to block the alternative blocking.

MR. OTTINGER: I doubt very strongly we would have entered a lawsuit on the optional filtering in this case. People For the American Way Foundation has not taken a position on that in other cases or as part of other Internet use policies.

MR. ANDERSON: That is the only question I was asking. If we can go to the next question. One of the points you made, and you said it emphatically, is that librarians should not usurp the roles of parents regarding their children. I think that was that what you said.

MR. OTTINGER: That was part of what I said.

MR. ANDERSON: Would you just explain what that means. If I am a parent and I do not allow my child at home to access certain sites on the web, why should my child be free to access those sites in the library? Do you think librarians should get involved in that?

MR. OTTINGER: I think the point is that it is a decision for parents to make. I mean, as I said, people have proposed alternatives where parents could opt to have their children not have access to the Internet at all—which would be, in my mind, a terrible decision—or to use filters or not. But the point I am making is whether it is a book censorship like the fact that a few people do not like J. D. Salinger's works, and are –

MR. ANDERSON: We are talking about the Internet. Stay on Internet.

MR. OTTINGER: Okay, they do not like J. D. Salinger's book on Internet, you know, and they say we want to block that material. That is fine if the parent with their child decides that they should not view that material. However, for the government, and that is a constitutional limitation, to come in and say you cannot view that material; they cannot take that role. It is really for the parents to decide how to raise their children. If they have an agreement with their kids, you are not going to use the Internet, that is for the parents to decide, not for ...

MR. ANDERSON: So what you are really saying is not that librarians should not usurp; librarians should not step into the parent's role. I am just trying to be clear on what you are saying. If a child wants to call up one of the questionable sites that we talked about, the child should be free to do that. Is that what you are suggesting?

MR. OTTINGER: I am saying they should not play the role of the parent in determining what access, what the child will read, what kind of Internet access they will have.

MR. ANDERSON: So you are basically saying that the librarian should not make that their concern?

MR. OTTINGER: Yes, usurp that role. I believe that is the same.

MR. ANDERSON: We might have misunderstood what you meant when you said about librarians do not usurp.

DR. CHALLINOR: If pedophilia is illegal, would you not expect the librarian to stop that access?

MR. OTTINGER: Of course. Illegal material or behavior—pedophilia—I said to the extent there is any behavioral misconduct whatsoever. I said, you know, that there has been very little evidence of this related to Internet use. If you actually saw an adult harassing a child or any conduct like that in a library, I expect librarians to take the same actions they would as if a patron came in with materials in their briefcase and started harassing or disturbing other people in the library. Of course, I would expect librarians to take action with respect to matters and serious conduct that are illegal and to refer that to the police to get help in terms of enforcement of criminal laws.

A lot of the policies we are looking at do not deal with material that is illegal, whether it be obscenity, child pornography, or actual solicitation of a minor. The sites we are seeing that are being blocked by the filtering software go far beyond that to either material that they call indecent or to filtering out all kinds of clearly valuable information.

DR. CHALLINOR: I take it you would not be in favor of blocking out interactive chat rooms?

MR. OTTINGER: That is another issue on which we have not taken a specific policy position. I think that is a local community decision, as people here have said. I would like to first see if there is a problem that needs to be solved in our library, in our community. In Virginia, there wasn't, even at the beginning.

DR. CHALLINOR: Were they talking about chat rooms?

MR. OTTINGER: No.

DR. CHALLINOR: I am talking about chat rooms. What is your view on chat rooms?

MR. OTTINGER: We do not have a position on chat rooms.

DR. CHALLINOR: Okay.

MR. ABRAMSON: At least three times you used the phrase 'valuable' information. I am assuming that two of the 'valuables' were gratuitous, because Americans For don't really care if the information is valuable. I am assuming that.

MR. OTTINGER: I am sorry. Are you talking about People For the American Way?

MR. ABRAMSON: Yes. You said blocking their access to 'valuable' information, but your foundation's position is that all information is valuable, and that it does not have to be valuable to be protected.

MR. OTTINGER: If it is constitutionally protected information, the public has a right to read it. It is not—you know, what one person will find interesting and helpful, that is the point of libraries. That is a very good question because I think public libraries are voluntary centers of free willing. We do not ask librarians to tell people what they can read, nor do we ask them to tell children what they can read. They provide a resource, and the Internet is a tremendous resource. Librarians are there to help guide people to the most helpful and quality information, and the information that they are looking for. It is not for the librarian to decide that this is the most valuable information.

MR. ABRAMSON: No, but you said 'valuable.'

MR. OTTINGER: I did. I do mean 'valuable.'

MR. ABRAMSON: You meant intrinsically 'valuable'?

MR. OTTINGER: A site such as the American Association for University Women to the Heritage Foundation would be 'valuable.'

MR. ABRAMSON: Intrinsically 'valuable'?

MR. OTTINGER: Yes.

MR. ABRAMSON: That was my point.

MR. ANDERSON: You would agree that we do not have to wait for a child to be killed on the street corner before there is a street light?

MR. OTTINGER: I am sorry, I do not know how that relates to the Internet.

DR. CHALLINOR: Yes. I understand.

MR. ANDERSON: There are actions that people in responsible positions can take, whether in government or in business, that anticipate consequences so we do not have to wait. I assume you are not suggesting that someone wait until a child is physically hurt before this gets discussed or considered. You do not mean that, right?

MR. OTTINGER: Of course not.

MR. ANDERSON: I understand. I understand.

MR. OTTINGER: Mr. Anderson, I just want to say one thing. That is why I talked about preventive policies like computer positioning, privacy screens. A lot of what I saw in earlier testimony, people were worried about people accidentally viewing material on a terminal that could be harassing, could be disturbing. Let's look at alternatives that do not restrict people's access to Internet content and also protect privacy, such as privacy screens, screen savers, computer positioning. Let's look at a way that will solve a problem without infringing on other people's rights.

CHAIRPERSON SIMON: Is your organization engaged in any other lawsuits regarding libraries and the Internet outside of the Loudoun County one?

MR. OTTINGER: We are actually involved as an amicus in a case in Livermore, California,¹⁷ which you may have heard about where a parent sued a library for not blocking out information on the Internet, saying that they had a duty to basically block out information on the Internet, which was also an issue in our Loudoun case. I think the opinion that we expect shortly should also be helpful to this Commission in looking at that issue. I think it may be addressed.

CHAIRPERSON SIMON: We will be looking forward to receiving that opinion.

MR. OTTINGER: Thank you very much.

CHAIRPERSON SIMON: We will now hear from Electronic Frontiers-Texas. Mr. Crick, are you ready?

Testimony of Gene Crick

MR. CRICK: I am quite sure my state's experience with the Alamo has taught me to beware.

Good afternoon, my name is Gene Crick. I am president of Electronic Frontiers - Texas, an organization committed to First Amendment principles in the new media of telecommunications and the Internet. Additionally, I am executive director of the TeleCommunity Resource Center, a non-profit program of the Metropolitan Austin Interactive Network which has enabled public Internet access in 25 cities.

I am familiar with today's topic because we installed our first access terminals in Austin, Texas, in 1995 and have spent much of the time since dealing with content controversy. This experience convinces me that despite its allure as a political quick fix, library Internet filtering is simplistic, ill-advised, and ultimately unsuccessful in resolving this complex conflict of social values.

¹⁷ The opinion from Livermore, California, was not provided to the Commission.

Unfiltered access must be offered to adult library Internet users.

The case against required adult filtering in United States libraries seems clear: Internet filters violate users' First Amendment rights.

Our Constitution demands government permit citizen participation in most kinds of speech, except in cases where the government can demonstrate a compelling reason to restrict access.

Library users have a reasonable expectation that they will be able to find constitutionally protected information in libraries and will not be deliberately denied access to that information when it is readily available.

In my opinion, no computer program currently available can adequately distinguish all protected speech from unprotected speech. Thus, no 'filterware' can remove unprotected speech and objectionable content and still allow access to all constitutional free speech.

Nor, given the diversity of content semantics versus the binary logic of machines, do I believe a fully acceptable filter is soon likely.

Therefore, restricting adult library Internet users to filtered terminals represents government intrusion into adults' right to access free speech.

This is especially important in libraries with only a single Internet access terminal which offers filtered children's access. These libraries must enable adults to use the same public terminal with filter software removed or disabled.

Children's access issues are less clear.

The considerations for children's Internet access are not so obvious. Several of my colleagues argue convincingly that library filtering is unacceptable even for children. They maintain filtering curtails parents' rights to teach their children how to responsibly find value and avoid hazard in a free, whole Internet.

While respecting these views, I recognize libraries' practical challenges, including: obligation to comply with various laws written to protect minors from harmful influences; responsibility to parents' concerns for children's exposure to inappropriate content; and the political influences upon libraries which receive financial support from government agencies.

Some libraries choose to meet these obligations by installing online filter programs. But other librarians reject filterware and recommend "guided use," a non-censoring alternative which can have several aspects:

- User guides for parents, including the ALA's *Librarian's Guide to Cyberspace for Parents and Kids*, provide valuable guidance to parents, teachers and librarians about the hazards of the Internet and how to protect children in the online environment.
- User guides for children, including *700-Plus Great Sites for Kids* (another ALA publication) and similar guides, list appealing sites kids can visit while surfing the web. Many parents believe their children would prefer sites like these as more interesting and fun than online smut. These parents suggest their children might be embarrassed by stumbling onto un-gated pornography but have been taught to recognize and avoid unsuitable and offensive content in an environment of free speech, without suffering lasting harm.

- Libraries also may offer webpages designed to guide kids to sites appropriate for them. An example is the San Diego Public Library website (www.sannet.gov/public-library/searching-the-net/subject.html).
- Staff involvement and personal assistance, especially near youth access terminals, can help assure minors find valid, rather than objectionable, content. (I agree with the Supreme Court that this risk is overrated.)

Summary considerations for local public library Internet access include:

- Filter software denies adults access to valid information. Libraries which offer adults only filtered access are not adequate solutions.
- Parents have the right and responsibility to decide appropriate Internet content for their families. Some may justifiably choose to install filter software on home computers but their choices are not necessarily right for every family using library terminals. Parents must decide whether to allow their children to use library terminals for access.
- Library access must respect adult First Amendment rights as well community concerns for appropriate children's content. While librarians may select which books to buy, they cannot deliberately block access to protected speech otherwise available from an uncensored Internet.
- Finally, a most important point: these are local decisions, properly made by local citizens and librarians, reflecting community values and best interest. No government should attempt to impose a single, political solution on local communities.

Thank you.

Questions and Answers

CHAIRPERSON SIMON: Thank you.

DR. CHALLINOR: I have a question. While librarians may select which books to buy, why can they not deliberately block access to protected speech otherwise available from an uncensored Internet? What is the difference between a librarian taking a brochure and saying I will buy this one but not this one, and saying this site should not be available to children or it should be available to only adults? What is the difference?

MR. CRICK: Selection, as manifested by buying the books, is a volition active tactic and you bring the information into the library. That is an inherent right of the librarian and a part that helps to meet community needs. On the Internet, the information is already there. You are saying these shelves are full of information, books, and these books are legal, and contain appropriate protected speech, but you can't read them.

DR. CHALLINOR: No, children can't read them.

MR. CRICK: No, I am in that context talking about adults. If I am unclear, please accept my apologies. Bear in mind that you have here a symbol, an impressive array of people with policy and wisdom and expertise on this. I tend to be a fellow working in the trenches out there, and so I am not always going to have the best answers. But I do know that I am concerned with adult unfiltered access.

DR. CHALLINOR: Would you accept that children be denied access to interactive sites?

MR. CRICK: I would certainly support a librarian's decision to accept that.

DR. CHALLINOR: That is all I want to know.

CHAIRPERSON SIMON: Did I understand you to say that the Supreme Court has overrated the risk of kids watching some inappropriate material?

MR. CRICK: There are people in this very room that are more familiar with this decision than I am. The way I read the CDA decision was that they did not find the magnitude of risk that some feared might exist.

CHAIRPERSON SIMON: I would love to know how the Supreme Court decided that. Thank you very much.

MR. ABRAMSON: You make me ask this question because you almost brought it up, each of you. I am not a librarian, but let's say I run a library that is large enough to have a children's collection, and there are no real—no barriers to, crossing between areas. Would it seem to impinge on anyone's constitutional rights if the Board of Trustees, which is what I am familiar with, said, "We are not going to provide Internet access to adults at all, because they have Kinko's (or business offices, or something like this) so we are going to have filtered Internet access for children in the children's collection room. We are only going to have one terminal, and it is going to be filtered."

MR. CRICK: That is a tough one. But, if a library chooses—and this must be spoken as an individual, I do not want to purport to represent my group—to offer children-only access, are they going to deny it to adults?

MR. ABRAMSON: They are saying there are resources on Internet that will enhance their ability to deliver services to the children. They do not feel, for whatever reasons, that it is something they have to provide to adults at the same time.

MR. CRICK: I would find that a remarkable choice, and a regrettable choice. I guess the only thing I can say is that I would have to deal with that issue when it becomes a choice. That may be avoidance behavior because I do not think they would deny adult access. This, to me, actually seems a strategy that might actually be saying we want to put filtered access in.

MR. ABRAMSON: No. I am from a state that has some libraries without even a telephone line. Some of them are about to decide whether to have Internet access, and they may decide that it is appropriate for children. Would that be something that would offend you?

MR. CRICK: I would be slow to oppose a library's local choice as long as they consider it best. Do you?

MR. OTTINGER: As long as it meets the constitutional constraints, for sure.

MR. ABRAMSON: But does that seem to meet constitutional constraints?

MR. OTTINGER: It is not a case that we have looked into. There are a lot of factors, you know. Is this talking about all children, all materials, 18-year-olds as well as young children? It is really something you have to look at specifically.

MR. ANDERSON: Mr. Crick, I am just a fellow in the trenches like you. Not being an attorney, the language confuses me, so I have to ask questions because I just don't understand. You said that

librarians may select books to buy, which Commissioner Challinor referred to, and they cannot deliberately block access to protected speech otherwise available. That is interesting, you use the word ‘protected’ speech. Give me an example of ‘unprotected’ speech.

MR. CRICK: Unprotected speech is—I am going to echo other speakers that say there is stuff on the Internet that is inappropriate for children. There is stuff on the Internet that is inappropriate for my dog. I am not holding forth that it should be offered at a library. That is unprotected speech, that which is illegal.

MR. ANDERSON: How do we do that? That is a fundamental question. The fellow next to me might disagree as to what he considers legal, valuable and inoffensive.

Let me give you an example with which, I am sure, you will both agree. If you see a picture on the Internet of a child in a sex act, you are seeing a felony that will be prosecuted in all the 50 states. In fact, if you receive that, you can and will be prosecuted by the U.S. Postal Service. It happens to be against the law to receive that. You also cannot get those videotapes on child pornography through the mail. That is evidence of a crime, that is a felony.

Should you feel a sense of responsibility about this? If so, what can they do? You got very agitated about that a second ago, like me, just a guy in the trenches. But what do we do about that? Wring our hands, or should they make decisions?

MR. CRICK: I guess they just do what you are trying to do on this Commission, and that is to find the best way. I do not think that the librarian should be cast into the role of an arbiter of what is illegal and what is objectionable. On the other hand, I think the librarian has an absolute right and an obligation to acceptable use within that library.

Some things are so flagrantly obvious that you need to go for the police right now. Other things are inappropriate. Snoring is not illegal, but I do not want to sit next to someone snoring. They should be asked to leave. It comes down to the notion of accepting reasonable policies.

MR. ANDERSON: You might say, if I could do this for you, librarians should use the same discernment that they would do in their normal duties.

MR. CRICK: I do not have a problem with that. I think they get a little bit of an implicit bad rap in this because it suggests the notion that librarians are not already actively involved in trying to bring the best, most wholesome, protected content for the people coming through their door.

It is just that I am in favor of community-based solutions. In Austin, we have the less than enviable position of being—all right, we are leaders in this debate, but that is sort of like being a canary in a mine shaft. It is not necessarily an enjoyable road.

Over the last two years we have tried to work together to find some solution that is acceptable to all members of the community. And it has been a heck of a fight. I do not mean a fight among the people; I mean a fight against the conflicts of the issues. We have got compromise solutions in place, and we will see.

MR. ANDERSON: Thank you very much.

CHAIRPERSON SIMON: Further comments or questions? I believe we have concluded the panels. I thank you gentlemen. We will have a ten-minute break.

9. **Unscheduled Speakers**

CHAIRPERSON SIMON: We are back in session to hear from three additional people who wish to testify.

The first person is Heidi Borton, a former reference librarian in King County, Washington. The second person is Karen Jo Gounaud, president of Family Friendly Libraries. The third person is Donna Rice Hughes from Enough is Enough.

Ms. Borton, please begin.

Testimony of Heidi Borton

MS. BORTON: I am very pleased to be able to speak to you, even on short notice. I do want to preface my remarks by saying that I think I know of an incident of pedophilia that happened in a public library. It was posted on David Burt's listserv, and I would be happy to provide details concerning that.

My name is Heidi Borton, and I am here today as a practicing librarian with a compelling interest in the subject of today's discussion. After nearly ten years with the King County Library System in Washington State, one of the largest in the nation and a leader in implementing technology in our libraries, in April 1998 I resigned. The reason for my resignation: the library's policy of allowing unlimited access to the Internet, including pornography, to children and teenagers. Not only did I find it unconscionable to provide such access in a respected, taxpayer-supported institution, but I later applied for, and was authorized to receive, unemployment compensation from the Washington State Employment Security Department. This was due to the fact that my position in the library system was deemed to have required "moral compromise" as a condition of employment. This is the situation faced by thousands of librarians and library workers across the United States: library systems are implicitly requiring their employees to put aside their own sincerely held moral beliefs in the interest of providing children with anything and everything on the Internet.

My own story began nearly two years ago. In December 1996 I asked our library board to consider the ramifications, both legal and ethical, of providing unrestricted Internet access to all ages. Subsequently, the library system decided to install the Bess Filter on terminals in the children's areas of our libraries. In fact, this was a move that was widely hailed by the press as being a good compromise. It provided the library system with some very good PR. But, sadly, the media never addressed the question of children accessing porn at other terminals. Or the question of whether the public's interests were served by providing a place where certain individuals could repeatedly display sexually explicit material, sometimes obviously to offend others, sometimes simply for their own titillation, sometimes to involve others in conversation concerning the material, including minors.

The precipitating incident leading to my own resignation came in November 1997. It was a usual Saturday at the library; we were busy and short-staffed. A telephone call came in and was referred to me by one of our library assistants. The caller identified himself as a 14-year-old. He wanted to know if the library allowed him to access pornography (**his** term) on our library computers. At that point I knew I had a choice. I could either hide the truth about library policy or tell him the truth. I chose to tell him what library policy was: that he could access whatever he wanted, provided it was not illegal child pornography. He replied that he just wanted to see pictures of "naked women". He also proceeded to ask a logical, if shocking, question, "If the library allowed him to view these porn Internet sites, why didn't the library also subscribe to certain hard-core porn magazines that he wanted to see?" At that point I referred him to the library manager who would be in on Monday. I spoke to both the library manager and the head of the library system on Monday, confirming that I had indeed

stated library policy correctly. Immediately, I realized that I could never again violate my own sense of morality in this way. Whatever library policy was, it was wrong to give a 14-year-old access to pornography in a publicly funded and supported institution.

I hope that my story will encourage other librarians who are disturbed by the ALA position on this issue to speak up, to act according to their consciences, and to not be intimidated. Let's have some Internet policies that encourage (dare I say *require*) a certain level of behavior in order to have access to the Internet, that require parental permission, and that authorize the use of filters on all terminals used by children. Let's openly publicize our policies at the local level and be willing to be accountable to those who pay our salaries and fund our forums. The libraries may be able to legally retain policies that allow children and young adults to access Internet porn, but the cost will be high both in terms of moral and in a loss of respect for individual human beings. Pornography degrades human beings making them into objects. It teaches children the wrong messages about the beauty of sexuality. It destroys lives. Requiring library employees to deal with online pornography is, simply put, indecent.

Thank you.

Questions and Answers

CHAIRPERSON SIMON: Thank you, Ms. Borton. Would anyone like to comment or question what Ms. Borton has told us?

DR. CHALLINOR: I would like to say thank you for coming before us and taking the time to tell your story.

MR. ABRAMSON: You indicate that you are today a practicing librarian. Are you working as a librarian in a different capacity?

MS. BORTON: I have a temporary part-time position as a college librarian.

MR. ABRAMSON: With Internet access?

MS. BORTON: Actually, yes.

CHAIRPERSON SIMON: Have you found other librarians rallying to your cause?

MS. BORTON: No. Well, I guess I should qualify that. I find many sympathetic librarians, but I do not necessarily see many willing to speak up, although they may be thoroughly disgusted. They are not willing to speak up because there is a lot of intimidation. It is just not the position to take. It is not the position of our one, large professional organization. It is not the position of our library administrators.

CHAIRPERSON SIMON: Have you talked to the ALA people about this?

MS. BORTON: Well, indirectly, because I have been on some forums.

MR. ABRAMSON: Is there a listserv, chat room, or a news group that you are aware of that deals with this specific issue?

MS. BORTON: No. But I will say one thing. I have noticed that there are two categories of workers in libraries. There are ALA librarians, in other words, the librarians that have the power, and there are

what I call ‘the blue collar workers’. They are the library assistants and the pages. Their views are usually very different, and they are often much more conservative. They are the underlings, you might say, in this system.

CHAIRPERSON SIMON: I think standing up for principle is always difficult. I admire your courage to do it as you see fit.

MR. ABRAMSON: So that I am clear. Do you have an MLS? Have you ever been a member of ALA?

MS. BORTON: Yes, I have an MLS. I have worked as a librarian, a children's librarian, a reference librarian, and a bookmobile librarian for more than ten years, and now as a college librarian. I have not been a member of ALA.

MR. ANDERSON: Did you write this statement yourself?

MS. BORTON: Yes.

MR. ANDERSON: Please do not be surprised by my question. It is really meant as a compliment because the statement is well written. I want to tell you my response as I was reading this statement—I wonder if anybody else had this thought. I was hoping to find something in the statement that I could say, “She is a liar; she is not telling the truth. This could not have happened this way.” As I went from sentence to sentence, I was hoping that what I was reading was not true. When I got to the end of the statement, I was convinced that it was true. As our Chairperson said, I admire your courage. This is really a very nightmarish situation that you have described. I am sure you have touched everyone in this room. With those preceding words, please understand the question that I am now going to ask you. Why exactly are you here?

MS. BORTON: I am here because I think that a person like me needs to be heard. I do not hold a high position. I am not from any organization. Even though I may agree with people from Enough is Enough or other organizations that are represented, I am not part of their organization.

MR. ABRAMSON: Who bought your plane ticket?

MS. BORTON: I’ll tell you because it is an amazing story. I did not come out here to testify before you today. I came out here to visit my son, who has gotten a government job in the last three months. I heard about this hearing two days ago and came down from Maryland. Incidentally, this incident is minor compared with others that I did not personally experience but which other people did and told me about. But they were not willing to testify. As for my writing skills, I do write a lot of book reviews.

CHAIRPERSON SIMON: There you go, Mr. Anderson. Thank you so much, Ms. Borton.

MS. BINGHAM: I want to compliment you for coming here because your tale is like some that I have heard. And just as you pointed out, so many of those who experience these incidents are not at the higher level and do not belong to or participate in ALA. I have participated in ALA for the last 33 years, but yours is a story that needed to be heard. It is an experience that is not unique. I am happy to have it as a part of the record today.

MR. ABRAMSON: Would you be surprised if *American Libraries* printed your statement?

MS. BORTON: I would be very, very, very surprised. That is at best a challenge.

CHAIRPERSON SIMON: I think your being here is true serendipity. I would like to commend you for having the courage of your convictions.

MR. ABRAMSON: It is not easy to swim upstream.

MS. BORTON: Thank you.

CHAIRPERSON SIMON: I hope I have given everyone an opportunity to speak. Thank you, again.

We will now hear from Karen Jo Gounaud, president, Family Friendly Libraries.

Testimony of Karen Jo Gounaud

MS. GOUNAUD: Did everyone get a copy of my material?¹⁸

CHAIRPERSON SIMON: Yes, we did. Thank you. Anytime you are ready.

MS. GOUNAUD: Thank you for including me in this hearing. We are a small organization, not really a typical organization. We are more of a network. Family Friendly Libraries (FFL) is a national network of concerned citizens, parents, educators, trustees, and library professionals concerned about public library policies affecting children and their families. We provide education and information to all inquirers.

I want you to know we have a page on the People For the American Way website. It is not entirely accurate, but that is okay. I accept the honor of them thinking we were important enough.

Our top priority goal is protecting children from age-inappropriate materials. Our top priority problem has become pornography on the Internet. Let me be clear about what I mean when I use the term ‘pornography.’ When I say pornography, I am referring to sexual material created for the exclusive purpose of sexual titillation. This includes both legal and illegal material. I would not necessarily include a nudist family picture of what we did on our vacation. If it is really something family wise, then that is their business. I am talking about material for the exclusive purpose of sexual titillation, both legal and illegal.

I will try to highlight the main complaints about the unfiltered Internet in public schools and libraries, concerns that we have received from people across the country. Problems with teenagers using Internet unsupervised in libraries; problems with adults using unfiltered Internet—all of which affects minors who share library space; and problems with children using unfiltered Internet or even sometimes filtered Internet, even when their parents are present.

Some of my greatest concerns would be the circumvention of parental authority when allowed to access materials against parental will. For instance, we know of a 14-year-old boy who downloaded pornography and gave it to an 11-year-old. He was really getting hooked on that. His mother begged the library not to let him have access to that. She was a single mom and had to work a lot. He had to do his homework much of the time without her around or else just pull him out of the library, and they would not help her with that problem even though, obviously, it was developing into something more serious.

¹⁸. Supplemental material from Ms. Gounaud and Family Friendly Libraries begins on page 172 in Appendix A.

We had a complaint from a mom who did not have the Internet in their home. Her son accessed hardcore pornography in the public school, even with the teacher around. He ended up getting hooked on pornography. He broke into the school twice to get to the computers, and a couple of times he left semen samples in his favorite teacher's coffee cup. Now the parent is trying to do something about what happened to her child and figure out where the school's responsibility fits into that.

The most common problem is teens and children being accidentally exposed to this age-inappropriate material, including illegal material, because of misleading web addresses.

There are 'free teasers' that they put out—make no mistake about it, folks. The bottom line of this entire pornography industry on Internet is **money**. You take away the money, you take away the social acceptance of it leading to the money, you won't have a problem anymore. Look what has happened to smoking. I almost feel sorry for smokers now. I wish I could get to the point where I felt sorry for pornographers, but I do not think I ever will.

So make no mistake about it, it is money. If I were you, I would check on every organization that opposes filtering and find out how much money they get from the pornography industry. You will, perhaps, be surprised at the connection. Anyway, the accidental exposure includes surfing in what appears to be a trustworthy area. For instance, let's say recommended sites for young people. I know of such a case, an organization that out of the hundreds of thousands of sites, they recommend 23. That makes those 23 pretty special. One of them leads to what is really meant to be an adult website at Columbia University in New York. When they put in a search engine word to look for information about—perhaps they are allergic to animal products—"animal." Two of the top, in fact the two top letters from the archives, hits are on bestiality. They do not warn things like, "Please avoid this activity. It is illegal across the country. It is dangerous and wrong." No, they make fun of it. They say, "Well, animals don't kiss and tell." A lot of people think this is illegal, but you really have to check the laws in your state. It may be okay. Guess which organization chose that as one of the top 23? The American Library Association. Now, they know that this problem exists because we brought it to their attention. Bob Marshall, who is an elected official in Virginia, brought it to their attention at the Online Summit in December. I checked just recently, and the problem is still there. Is everything they do wrong? No, no, no. Don't get me wrong. There is an awful lot of good that has been done by that organization.

But someone has lost their way on the issue of children and the Internet. So I urge you to check the websites of a variety of organizations. There is a lot of good help on Enough is Enough. For instance, they have the definitions for all the different types of pornography. You cannot make an informed decision about the subject without understanding what the legal terms mean.

With regard to the issue of Loudoun County. In my material, among other things, is a brief I made myself. It is not a legal brief, it is my own comments from our organization in support of Loudoun County. Look on the other side of it. The man who crafted the policy, who is himself an attorney, his phone number is there. I urge you to talk to him and get it straight from him. As far as Mainstream Loudoun, it is very interesting. If they truly were mainstream, you would think that their candidate would have been elected to the Virginia legislature. Guess who got elected? Dick Black, who crafted the policy. And by a fairly large majority. So watch out for terms that may need a little redefinition.

All these problems are unnecessary and unfortunate distractions from an otherwise marvelous educational tool. They are not prevented by rules alone. Technology is a necessity to protect the kids. Machine problems can be adjusted, adapted and erased. What goes into a minor's mind is much more difficult to adjust or adapt and can never be erased. Some pornography is constitutionally protected speech, but there is no constitutional mandate to make that material freely available for adults,

especially not at the expense of the kids. A filter is not an eraser—it is a gate. It does not precipitate censorship, but responsible sponsorship. A young mind is a terrible thing to molest. Please urge public schools and libraries to be more responsible.

In 1995, *Primetime Live*, which is not exactly known as a right-wing Christian organization, found complaints among their own people about children having strange sexual behavior, talk, tastes, you know. They got a chance to pick a video game. They took what Miss January looks like without her clothes on type of thing. They checked and found out these children had not been molested; they had merely been exposed to pornographic materials. When they dug deeper, they found out that the younger the child, the more exposure to pornography visually caused behavior in the child that was not different from being molested physically.

So I submit to you that exposing children, whether by accident or on purpose or because of some ideological stubbornness, is mind molestation and we need to address it as such. Some pornography is constitutionally protected speech, but there is no constitutional mandate to make that material freely available for adults, especially not at the expense of the kids.

Please urge public schools and libraries to be more responsible. Follow the money; where is the pornography money going? Can I answer any questions?

Questions and Answers

DR. CHALLINOR: I congratulate you on being so clear.

CHAIRPERSON SIMON: You are a powerful advocate.

MS. GOUNAUD: Well, I am a musician by trade. I wrote musicals for children. I never, ever expected to be involved in this issue, but I am a she-bear, too; and she-bears protect their cubs and also the cubs of others. I believe that the protection of children is a compelling government interest and a compelling interest of all reasonable and responsible adults.

CHAIRPERSON SIMON: We certainly agree with you, Ms. Gounaud. Are there comments or questions?

MR. ANDERSON: You gave a very clear and articulate expression. But, what I would like to say is, I hope that somewhere in all this we take pride out of the comments because the people at ALA, whether you agree or disagree with their various positions, are doing so sincerely, just as you are acting sincerely.

As an attorney before started using language about pro censorship in trying to create demons, demonize those who disagree, it is my fervent hope that we, in all the view, get away from that, take away the pride of authorship, the pride of our positions. I think that will lead to a compromise. I know we heard before from one executive that compromise was not possible, but I do not believe that is true. I think, on reflection, that the executive will reconsider that position.

MS. GOUNAUD: Let me tell you why I was not going to mention anyone in particular because I did not want to be cantankerous. You should have a copy of the electronic bill of rights because now I hear them saying that they are very much supportive of not having access to illegal pornography.

But let me tell you, at that Online Summit, before at least 200 witnesses, I specifically asked Ms. Croop, head of the ALA Intellectual Freedom Office, because she pointed out all the good things they are trying to do for children on the Internet... It is true. There is a lot of really good material out

there. I want that to be emphasized. So I said, “Great, I appreciate it. Now are you ready to rewrite the electronic bill of rights to agree to at least have some kind of rules, if not electronic fences around ...” I asked for only two categories that are already illegal: one was ‘child pornography’ and the other was ‘illegal obscenity,’ and without taking a breath, she said, “No”.

Now, if that is not their official position anymore, I am very happy to hear that. I was very happy to hear Ann Symons talk about how she feels about illegal material. I found Ms. Symons to be a very reasonable person. We have debated many times, and I would rather debate her than anyone else in the ALA. But I cannot not mention that because the kids are too important. I have seen children hurt.

You see, I have a personal interest. I was sort of an adopted grandmother for a little boy. We took in a single mom with a baby; the mom decided not to have an abortion. Well, we took her in and he became like my grandchild. He was a beautiful, innocent little boy until his babysitter showed him a pornographic film that his mother was unaware of. A year later, he started writing sexually explicit notes to a little girl in his first-grade class. I get very upset when things like that happen. And I will hold any organization responsible, no matter how big they are; no matter how much money they have; no matter how much good they have done.

It is the same thing with Disney. He has done a great deal, but he is now hurting families, and we will hold him responsible—We moms—we she-bears. So, you are right, I will be very careful not to demonize them. I will not call them anti-family, even though I have been called pro-censorship. We are not. We are not for censorship. We are for responsible sponsorship.

MR. ANDERSON: Thank you.

CHAIRPERSON SIMON: Thank you very much, Ms. Gounaud. The third and final speaker is Donna Rice Hughes from Enough is Enough.

Testimony of Donna Rice Hughes

MS. HUGHES: Thank you. Good afternoon. When I came to hear my boss speak earlier, I thought I was signing in on a sign-in sheet and only realized later that I was signing up to speak. However, I thank you for this opportunity.

As a result, I do not have any prepared remarks. I just wanted to make myself available and share a little bit of my experience on this issue. I started with Enough is Enough about five years ago. At that point the organization was focused strictly on illegal pornography in print and broadcast and sexually oriented businesses. Within about two weeks someone showed me the kind of material that children could access on the Internet. At this point, this was the use-net news groups, I said to my boss, Dee Jepsen, “Children can access for free on the Internet what their adult parents cannot buy in a triple X-rated book store on the seedy side of town. This is unprecedented, can I explore it?” And, she gave me the opportunity to do just that.

As I explored further, I discovered children had access to not only child pornography and obscenity but also to material harmful to minors. We discovered that there was a loophole in the law. That is, the same kind of legal protections that protect children against material that is constitutionally protected for adults, like *Playboy* and *Penthouse*, did not extend into cyberspace, and they still do not. With one exception ...

Congress just passed the Child Online Protection Act, and that was a very incremental step in extending the ‘harmful to minors’ laws into cyberspace by requiring the commercial web operators in this country to segregate pornography away from children via adult verification technology.

Upon further exploration, once we became familiar with chat rooms and use net discussion groups, we also discovered that predators and pedophiles had unprecedented access to children.

Now the challenge was that the pornographers and the predators were way ahead of three separate groups—the public; the technology community who had developed this technology for good purposes; and the law enforcement community, governmental agencies and Congress. So we set out to try to educate each of these groups and to find ways to deal with this challenge.

I come before you today as Vice President of Enough is Enough. I have just authored a book called *Kids Online: Protecting Your Children in Cyberspace*. I was called as one of two expert witnesses in the Loudoun County library case in favor of Loudoun County's position to exercise their choice without fear of intimidation of lawsuits and the unfortunate use of their funds defending themselves.¹⁹ I have given more than 1500 interviews on this subject. I served on the steering committee for the Internet Online Summit last December and had the opportunity of working with the Justice Department, the Department of Education, the private sector, the American Library Association, and other nonprofit groups. We try to build bridges. I think that we can protect children on the Internet without sacrificing the First Amendment. We have been working toward the implementation of a shared responsibility, and that requires the public doing their part, the technology community doing their part, and the legal community doing their part.

Now, ideally, when each segment is doing their part, it is balanced. Unfortunately, the laws that protect children, not only from child pornography but obscenity, are not being adequately enforced, particularly the Internet obscenity laws. We have not had one Internet obscenity prosecution, EVER! That is why a child can innocently type in something like 'horses' to get information on horseback riding, for instance, but also get to bestiality. Those are some of the first sites that will come up because of the lack of law enforcement. Again, the legal prong is falling short. The legal prong provides a very important barrier for what ends up getting to the end consumer. We have been working with the technology community to develop the tools for the end consumer and to implement those tools themselves.

We are also encouraging those gatekeepers to comply with the current law. That is, remove child pornography and obscenity from their own boards and services that they have proprietary control over which includes user net news groups, and to find ways to segregate adult material, just as a form of family friendly policy, not because they are required to by law, but as a part of policy that they may want to consider adopting. But, at the end of the day, most of the burden is still falling on the end user, whether it is the library, or the school, or the parent. Protecting children from some of these problems on the Internet must include the implementation of both rules and tools.

I will tell you an incident that happened in my house the other day. My stepchildren know safety rules. But, without the tools in place, let me tell you what would have happened.

I have parental controls turned on, and my stepson knows not to give out personal information, but he can be tricked. They are kids. My teenager was filling out some forms which he thought were okay to apply for college applications. As a result, his e-mail address got out there, and he was receiving dozens of what we call pornographic spam e-mail messages. Now, fortunately, I had the tools in place. As a result, he was not able to open the pornographic e-mail. I had taught the rules. And that combination, whether it is at home, in the school, or in the library, the rules without the tools are ineffective because of accidental access and because of the way the pornographers and the predators

¹⁹. Ms. Hughes' expert witness report, submitted by Mr. Burt, begins on page 182 in appendix A.

are exploiting the Internet. Hopefully, as we continue to work with law enforcement, Congress, and the technology community and continue to raise public awareness so that the end consumer understands what unrestricted access means and what children can be exposed to accidentally, the consumer will understand the necessity of the implementation of proper rules and tools.

I would like to conclude with this statement. If libraries, whether they be school or public libraries, will implement the combination of currently available software tools with safety rules to extend the criteria for selecting content in the print media to the Internet, then children's Internet access at the library can be restricted to protect them from pornography and predation while allowing children to access the beneficial areas of the Internet, thereby ensuring a safe and educational online experience.

Questions and Answers

CHAIRPERSON SIMON: Thank you, Ms. Hughes. Are there comments or questions? We are reaching the end of the day, and Ms. Hughes was the last person to testify. We thank you. We have certainly learned much today about Enough is Enough.

Commissioner Abramson has suggested that anyone who wishes to comment informally may do so. Ms. Rodger?

Comments from the Audience

MS. RODGER: Just one very quick comment. I want to thank you again for holding this hearing. As I read your paperwork, I felt particularly hopeful about the Commission's desire to be helpful to the profession. I think that the word 'practical' was in there somewhere. I do not envy you the task of kneading all of this information into a dough that makes something. But, I just celebrate your desire to be helpful to the library community. Thank you.

CHAIRPERSON SIMON: We appreciate your comments. In any event, we have time for final closing comments and remarks from Commissioners.

10. Closing Comments from the Commissioners

MS. BINGHAM: I just want to thank everyone for their input. I think today has been tremendous. I think we have quite a challenge before us, and I think it is one that we are going to conquer. We are capable of it, and we are going to collectively think about this important issue.

DR. GRIFFITHS: I have a number of comments I want to make. One of which is that we have, hopefully, gathered information about the extent to which there is really concern. I think there is much concern in a lot of instances that are not really exposed in the media in ways in which we would anticipate. So, my first concern is really getting some hard data on the extent to which we see the kinds of predatory approaches to children.

The second concern I have is that we have heard a lot about filtering today. To me, filters are simply the other side of the Commission; they work exactly the same way that most online library catalogs work. I have heard few people say that blocking does not work; this is terrible. I think to some extent that approach to filters is a little bit shortsighted. I think there are things that can be done in terms of restricting access to certain kinds of content, particularly content that is clearly and unequivocally illegal, it is child pornography. We can identify that—any one of us can identify that. There are also obviously very good things on the Internet. I think we can discern what is clearly very good from what we clearly do not want children to access, then we can start dealing with the middle ground.

DR. CHALLINOR: I would like to say that until I came here today I had not considered the dangers in the chat rooms, although I myself got into an illegal chat room because I was looking for a sports chat room. In other words, the chat room does not say what it is. My whole inclination, everything I have, is to protect our children. They are our future. We are the adults. If the adults do not protect the children, nobody will. I have listened carefully all day. I think we have received enormously valuable information, and I thank everyone for attending.

MR. ANDERSON: I once asked my friend and mentor, Elie Wiesel, whether his survival from Buchenwald had any meaning. He said, "No. It is up to me to give my life meaning." Every person who spoke today, with the possible exception of the attorneys –

CHAIRPERSON SIMON: Go, Walter.

MR. ABRAMSON: Possible exception?

MR. ANDERSON: Isn't it interesting I don't have to go any further? Have you ever tried to get a yes or no from an attorney? It is not in their vocabulary. You ask them for a match, they give you a history of fire.

Anyway, every person who spoke today was sincere in their belief. The attorneys were passionate. The others were sincere. I think it is important to understand that, to discern the difference. Regardless of which side an attorney is on, he is a paid advocate. If he is here in the middle of a case, he is here, he is arguing his case. Keep that in mind.

I am not really interested in the attorneys. I can read their views elsewhere. I was very interested in hearing people who were actually in the field, and the turmoil they are going through. A concern I have which I voiced earlier in the demonization of those who disagree. Therein lies a great danger.

Hell, I am both pro-choice and pro-life. I believe people should be able to make choices. I believe in the sanctity of life. Now, you guys do not have a clue of what I believe about abortion.

Now, the ALA has been criticized today and has attempted to defend its position, and you can see even in defense, at least I felt even in defense there was an unsureness, an unsteadiness of foot, which indicated itself in its passion. That is because all of us on every side of this issue are actually on the same side because we all care first about the kids, and that is our goal. We really do care about the children.

I heard someone mistakenly come up to Andrew Vachss earlier today as he was leaving and say, "I really enjoyed your talk, but I am on the other side." I went over to the person later, I put my arm around them, and I said, "You don't really mean to say you are a pedophile, do you? That is the other side of this issue."

We do have a responsibility as part of the human species to protect our children, and it is not enough to live in the ether, to live in that ethereal world. We must help our children.

Let me remind you about one of the suggestions I made to members of this Commission not long ago when the subject arose. I said that many of you are talking about this expertly, but what I suggest is that you go to the computer and call up a few words on the web, like 'sex', and see what you get. It had a profound impact on the Commissioners.

Now, I will conclude my comments by saying that I think some good will come out of this as long as the latitude of acceptance of the various people is open and real. If the position of the ALA is

immutable, then the ALA stands aside, is far distant, from the librarians in the country. If its position is that the ALA believes in perfection and it is seeking perfection, it also means every library should have every book ever written, which is not possible. Librarians discern, and it is librarians who make up the American Library Association.

I think there can be reason within the ALA position, even though there may be some extreme opinions there right now. Having said that, I want to close my comments by saying this. There is nothing that I could have said here today that would have been better, more full, more complete than Andrew Vachss' discussion earlier today. I would like to remind everybody that Andrew Vachss' entire life, unlike every other person in this room, 100 percent of his time, is devoted to children and their survival. That's it.

MS. GOULD: I feel like I am picking my way through a minefield. As a practicing librarian, I have always believed in the Library Bill of Rights. I have always believed in access to information. But I also understand that libraries have selection policies and selection procedures. We cannot have everything, but the rules of the game have now changed.

With the advent of cyberspace and the Internet, and to coin a phrase from Linda Hooper's *Innocent Images* presentation in Nevada (which is the FBI program), "You don't know that there isn't a dog at the other end." You do not know what is at the other end. Whether we like it or not, down the road there will have to be some kind of compromise. Is that an easy thing for me to say? No, it is not. But it may be the only practical way that we can approach a problem and find a solution. For me, protecting children is the most important thing we have to face in terms of accessing information on the Internet.

I like the idea of libraries carrying selection policies and procedures for identifying good websites for use by children and adults. We talked a great deal today about children, pornography, and inappropriate material. We need to protect children. But there are also adults that can be offended and adults that can be swayed by accessing inappropriate information or inappropriate material for their own personal reasons.

I would hope, as Commissioner Anderson said, that we do not demonize those who may disagree with us. We are willing to come to the table because we all want the same result, and that is—libraries that are vital to a society that has come into the Information Age. We do not want to cut off access to information. But, at the same time, there are protections that have to be put into place. Do I know how we are going to do that right now? I do not. Is it going to be easy? No. Are we going to have to compromise? Yes.

CHAIRPERSON SIMON: Today has been a good day for the U.S. National Commission on Libraries and Information Science. Our enabling legislation, Public Law 91-345, was written for what we have done today: to hold hearings to elicit information and develop new ideas. Now we can begin to develop some guidelines for librarians and library trustees.

I would like to read an eloquent poem given to me by Joey Rodger. This short poem is by Kenneth Rex Roth from the *City of the Moon*:

Buddha took some autumn leaves in his hand
and asked Amanda if these were all the red leaves there were.
Amanda answered that it was autumn
and leaves were falling all about them,
more than ever could be numbered.

So Buddha said, I have given you a handful of truths.
Besides these, there are many thousands of other truths,
more than can ever be numbered.

I think that poem fits beautifully into what we have heard today. Joey, thank you very much.

MR. ABRAMSON: I am often perceived as being pretty casual about most things. People that know me learn quickly, however, that I am not casual on the issue we are discussing today. I hope no one has more trouble on this issue than do I.

I would like to try to paint part of a picture. After spending a year at a monastery, not only am I a proud card-carrying member of ACLU and ADA, at least two organizations who focus all of their energies on maintaining the separation of church and state, but I am also a dues-paying member of People For the American Way. That makes my position as a local library foundation trustee easier in some ways and more difficult in others.

I like the way the issue has been framed today. It is not an issue about censorship. In fact, my perspective on filtering (which I have shared with some of the Commissioners) is that it is not really a censorship issue; rather, it is an 'outsourcing' issue, which is of concern to more and more librarians these days. I think one way to approach the issue of filtering is that it is a decision about outsourcing professional decisions. That is easy for me to say because I am not a professional librarian. But that is the way I think it should be approached.

As a library foundation trustee, I will do anything to keep a library open. Libraries are not required by law; at least not in Montana. Unlike schools, libraries are optional. But, as I said, and some people may think I am a little flippant on this subject, I actually consider public libraries as civic cathedrals of the arts and humanities.

MR. WILLARD: Thank you. I am delighted to be here because, as I remarked earlier, I began my career with this Commission, or at least in current times, as a member of the Commission. This has been a source of great pride, only exceeded by the pride I had in being selected by my fellow Commissioners to assume the day-to-day managerial role.

Arranging today's hearing was one of the first major assignments I have had as executive director. As usual, when someone is involved in the nitty-gritty of arranging a hearing like this they usually have a list of things they wish had been handled differently or better. But, the bottom line is that I think we have done a good job of getting what everyone has acknowledged to be a difficult issue well ventilated.

On occasion I have used the phrase, "the extremism of initial advocacy." I strongly believe in those words. In order to frame issues, you really have to set the far sides of both issues: that is how you get to the middle. As Chairperson Simon said in her opening remarks this morning, that is where we have to be. We have to come up with some compromise; everybody has talked about that.

From a very practical point of view, our next steps are to determine where we are now. An excellent hearing record has been created today. We have an open 30-day period during which participant's from today's hearing and others who may hear about this activity can add to the record.

As Joey Rodger pointed out in our initial notification about this hearing, we indicated our hope that the end result would be practical guidelines for librarians to deal with these issues, and as the Commission's stated position in bringing to the attention of the Congress our feelings about the restrictions that would have encumbered the library, Federal Library Funding Act, the Istook

amendment, we took a strong position saying these really are not issues that need to be addressed by a sweeping federal mandate, but rather by allowing flexibility and local decision making. We do need to move forward putting the record that we've amassed today and will continue to build on. We have to put that into a forum that can meet the test of being practical guidelines for librarians.

We can never forget what our enabling legislation calls on us to do. While the legislation provides us with broad latitude to provide policy advice to a whole host of entities, it does specifically target the president and the Congress as recipients of our policy formulations.

Over the next few months, as the Commission as a whole digests and articulates what has come out of today's exercise, clearly, policy recommendations to the President and the Congress and to other officials at the state and local level with responsibility for children's access to the Internet will ensue.

The Commission meets next in December 3-4, 1998, in Seattle, Washington. We will meet again from April 7-8, 1999, in Ann Arbor, Michigan, prior to the Association of College and Research Libraries 9th National Conference. During the December meeting, I am sure the Commission will have ample time to discuss the thoughts that today's exercise has prompted. By the April meeting we should be in a position to formally adopt a set of recommendations resulting from today's hearing.

Clearly, additional research is needed. I am fully supportive of that, and I hope the Commissioners are also. Additional research is consistent with our long-standing function of collecting statistics and research information.

I think we need to sharpen our understanding to some of the technological underpinnings. We have heard what has to be very strict statements that really have to have gradations. We do not want to see an across-the-board ban on chat. We also heard testimony about very positive dimensions of chat—homework help, access to the public zoo. I think we would be foolish if we did not have a means of communication between people of different cultures. I think there needs to be within the Internet a safe way of exploiting that marvelous opportunity.

We need to better understand the technology. We also have to acknowledge that technology is a moving target; that the World Wide Web accessed today will be different tomorrow. As the technology that makes it function continues to change and expand—as you go from one level of HTML to the next, or as you go from HTML to XML, and as you get the imagination of the millions of people who are connected to and using this source as saying, “Hey, I could do it better,”—the benefits and the promises become even better. But, we have to be mindful of the perils. I believe the Commission has set out in a great way to address this issue. Again, I am delighted to have played a role in moving this issue forward.

CHAIRPERSON SIMON: Thank you very much. This hearing is concluded, and I thank the participants and the Commission members. It has been a very good day for us all.

APPENDIX A: MATERIAL SUBMITTED TO SUPPLEMENT ORAL TESTIMONY

Entries appear in the order of appearance before the Commission and are cross-referenced by the organization's name and by the name of the individual speaker in the INDEX at the back of this publication.

[NOTE: Documents submitted as paper copies have been scanned and reformatted, so the format may be different, but the content is as submitted..]

1. Supplemental Material from Andrew Vachss

[Mr. Vachss' testimony begins on page 4 of this publication.]

KIDS AND THE INTERNET: THE PROMISE AND THE PERIL

TESTIMONY OF ANDREW VACHSS

BEFORE THE UNITED STATES NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

PRESENTED TUESDAY, NOVEMBER 10, 1998

America is a country which holds free expression of opinion to be sacred. That does not mean all opinions are equal. Today, the Commission will hear many opinions on a controversial subject: How to protect children using public access Internet terminals in libraries from predatory pedophiles ... while simultaneously preserving our First Amendment freedoms and respecting the library community's traditional aversion to censorship. Because I hope for your attention, because I want you to value my opinion, I need to take a couple of minutes to explain my standing to speak to those issues.

My first exposure to what I have come to consider the greatest threat to humanity on this planet was as an investigator for the United States Public Health Service more than thirty years ago. At that time, the agency's goal was eradication of sexually transmitted disease, with syphilis as its major target. The technique was field epidemiology. Investigators were dispatched each time a positive test for syphilis was reported. It was our job to interview the infected individual and obtain all his or her sexual contacts within the critical period (which varied, depending on the stage of syphilis encountered). Then we had to find those contacts, arrange for them to be tested, and follow up on any new cases in the same manner. Syphilis is a "chain"-type infection. It was our job to break those chains.

As you might imagine, some people were quite forthcoming, while others were quite adamantly ... not. Some kept detailed address books. Others professed only the vaguest recollections. Often I would find myself spending several straight days and nights tracking a sexual contact, sometimes with nothing more than a nickname or a physical description and the address of a pick-up bar to guide me.

Investigators had no defined territory. I routinely visited juke joints, whore houses migrant labor camps, county jails, crumbling shacks, and back alleys. I also spent time in country clubs, exclusive neighborhoods, and penthouses. And what I learned was that child sexual abuse has no socioeconomic boundaries.

Most people's knowledge of child sexual abuse comes via the media. And the media tends to focus its attention on both extremes of the "debate." I use that word sarcastically because extremists are driven by belief-systems, not facts. So the public is given a choice of believing that "one out of every five children will be sexually abused by the time they reach eighteen," or that the whole thing is a "witch hunt," driven by a tidal wave of "false allegations." The truth, of course, lies somewhere in the much-less-newsworthy middle.

My own knowledge of the subject preceded the debates. It came from infants born with syphilis, from toddlers with prolapsed rectums ... and gonorrhea, from pre-teens already in an advanced stage of venereal disease. So while I do not subscribe to some of the hyperbolic "estimates" of the extent of child sexual abuse in America, I also know, beyond dispute, that some children are victimized. Every day.

My next job was field caseworker for the infamous New York City Department of Welfare. It's fashionable to talk about the dire effects of poverty upon children. It's quite another to see it. And it's a hideous sight.

But what I saw next was even uglier. I left the Department of Welfare to enter the war zone in a place once known as Biafra ... a fledgling country which literally vanished during a genocidal tribal conflict. Those who once called themselves Biafrans are now governed by the military regime in Nigeria. Those who survived, that is.

My assignment was to attempt to establish a "direct pay" system, so that the millions and millions of dollars donated by Americas whose hearts were torn at the daily television coverage of forcibly starved children ... for starvation was a major weapon of war in that conflict ... could be translated into food without the usual "administrative costs." Unbeknownst to any of us, by the time I left America, Biafra had virtually fallen.

Although I was able to enter the land-locked zone by air, setting up anything resembling a system was impossible. No infrastructure remained—survival was the only goal. But before I was evacuated, malnourished and suffering from malaria, I saw how horribly children pay the cost for the wars of adults. The same way the children of Rwanda and Bosnia and Somalia are paying today. The abuse of such children is systematic, deliberate, and, since the goal is nothing less than ethnic dominance, chillingly effective.

After I returned to America and recovered, I worked a number of jobs. Briefly: I was a juvenile probation officer, ran a community outreach center for urban migrants, and a re-entry organization for ex-cons. Finally, I directed a maximum-security prison for aggressive-violent youth. It was there I learned, with the kind of clarity only daily, intense contact can bring, the direct connection between child abuse and later criminal conduct. I learned that all the biogenetic theories, all the "born bad" explanations, were nonsense. We make our own monsters and we build our own beasts. And while there is no one-to-one correlation, while most abused children do not turn predator as adults ... although they do continue to abuse themselves in a variety of ways: drug addiction, alcoholism, suicide; and to be especially good candidates for being abused by others ... I have never met a gratification-driven criminal who was not abused as a child.

At that point, I had spent my entire professional life trying to protect children. But the experience left me frustrated and angry. I was tired of spending so much of my time fighting to circumvent policies which were designed to fail. And I was tired of getting fired for trying. I needed a way I could fight for children without the handicaps of government or grantsmanship.

That's when I went to law school. And for the past 20-odd years, I have represented children. Abused children, neglected children. And, sometimes, very dangerous children. I have represented children against institutions, agencies, and individuals. And against their own parents. If there is anything that can be done to kids I haven't seen, I hope I never see it. Although I experienced the gratification that only those whose work is truly meaningful can know, I was unable to make a living with only children as clients. So, for a time, I financially balanced my practice with conventional criminal defense work ... which paid quite well.

In 1985, my first novel was published. And, unlike the textbook which preceded it, the novel was a real success. So much so that, since then, I have been fortunate enough to be able to represent children exclusively, using the proceeds from publishing to make up the deficits.

The novels are Trojan horses; an organic extension of my law practice. My way of reaching a bigger jury than I could ever find in a courtroom. And I, like every other writer in America, rely on the library community to make my work available to many others ... to make it accessible.

As a child in Manhattan, the library was one of my favorite refuges, a truly magical place whose open doors opened many doors for me. As a teenager, I attended a high school on Long Island whose name will be recognized by every librarian: Island Trees High School. For those of you not familiar with the reference, the school board removed certain books it found "offensive" from the school libraries. The case went to the United States Supreme Court, which ruled that: "The ... right to receive information and ideas ... is an inherent corollary of the rights of free speech and press that are explicitly guaranteed by the Constitution." ¹

I was proud of our country for that decision. And I don't believe libraries have a more fervent supporter than me. But my support is not robotic, and my conduct will not be dictated by slogans.

Before I explain my position, let me tell you some of the things I have learned about predatory pedophiles. I am careful not to call such individuals simply "pedophiles," because "pedophilia" is a state of mind, not conduct. To "feel the feelings" may be "sick." But to act on those feelings ... that is evil.

Why do I call it "evil?" Because it is neither the product of ignorance nor a mental illness ... it is a choice.

Although defense attorneys love psycho-babble terms such as "pedophilia," pedophiles themselves loudly proclaim they are not "sick" and don't need treatment. Here's a typical statement:

This [article, entitled "Pedophiles Need Treatment, Not Publicity"] would at first seem to be an understanding article, but it is even more dangerous than raving pedokillers. Man, we are not sick-no matter how badly this fact shatters your view of the world. No sickness, no treatment, no involuntary confinement to asylums.

Where did I find this proclamation? On the website of the International Pedophile Liberation Front ² ... within the section they call their "Enemies List." I am quite proud to be on that list. And perhaps even prouder of what they say about me:

This guy is defined as a "crusader" against the exploitation of children. He is not particularly anti-sex, and some of his arguments are comparatively sound, although It's Only Propaganda, as usual. ³

Not only would I oppose any attempt to censor their right of free speech, I agree with them on both counts ... they are not "sick" and they don't require "treatment." And I certainly cannot quarrel with their listing me as an enemy.

In truth, there is no such disease as "pedophilia." Literally translated, it means "lover of children," which would be their own self-definition, not a diagnosis. But a pedophile's love of children is the same love you might feel for a hamburger. Something to be consumed. An object you make for yourself ... or buy from another. Chronic repetition of the same crime does not entitle one to call his conduct a mental illness. If I were to walk into court with a man accused of a string of liquor-store holdups, I doubt the jury would buy the argument that my client suffers from "armed robber-ia."

More importantly, child molesters do not want to be "cured." They are proud of their evil work. They say the only thing wrong with their conduct is our out-moded society's Jurassic and oppressive mores. They lobby intensely for the right to molest ... which they call lowering the age of "consent" for children to have sex ... and call themselves "child advocates" in the process.

In truth, the essence of each child molester is that he or she ⁴ is a sociopath ... an individual utterly devoid of empathy, driven by his own needs to the exclusion of law, ethics, or morals ... an individual indifferent to (and in some cases, excited by) the pain and trauma of his victims. The foundation to all treatment is a desire to change. And no psychiatrist will ever claim to have "cured" a sociopath.

Do not allow yourselves to be seduced by the tempting belief that "pedophilia" is just another "addiction." All addictions are marked by one significant characteristic—the specific efforts of some of those afflicted to rid themselves of such shackles. If you are a narcotics addict, an alcoholic, an over-eater, an anorexic, an obsessive-compulsive ... you can find self- help organizations keyed to your problem. Places where you can walk in and be among your fellows ... those who have suffered as you are and who want to help you overcome.

So why is it that all the "pedophile treatment" programs are occupied only by those who are court-ordered to attend? Why is it that there are no walk-ins, no individuals seeking treatment on their own? And why is it that the only time you hear a child molester express "remorse" is when he is facing a sentencing court or a parole board?

And if "pedophilia" is a "disease," where is the cure? Recidivism rates ⁵ for predatory pedophiles are frightening. And when one considers that "recidivism" is only for those caught and convicted and that the average child molester has committed many dozen sexual assaults before he is first captured, that fear turns to terror.

What is the significance of recidivism statistics? They point out clearly that predatory pedophiles are committed to their course of conduct. Unlike, say, armed robbers, they do not "burn out" with age. Unlike, say, drug addicts, they are not amenable to treatment. Indeed, do you know what the pedophile organizations call an individual who claims to have abandoned his commitment to sex with children? A traitor.

Predatory pedophiles are not sick individuals who need our help. They are human beings whose preferred conduct is sexual exploitation of children. They cannot be "cured." And, given the softness of our existing laws—we live in a country where an offender can expect a life sentence for a pocketful of cocaine ... and probation for a trunkload of kiddie porn--deterrence is not to be expected either. Faced with predators, we have only two concurrent courses of action: One, we must interdict them wherever possible, and Two, once we catch them, we must keep them.

* * * * *

I come before you as a man with two professions, both of which hold reading and learning as vital to their existence.

But as much as I revere the public libraries, I am here to tell you that, when it comes to the Internet, cries of "Censorship!" have become the new McCarthyism. Merely evoking that talismanic label guarantees resistance. And libraries will always be at the forefront of such resistance, determined not to restrict anyone's right to speak or listen. This is as it should be.

But before we kneejerk ourselves into collaboration with pedophiles, let us deconstruct the slogans. Let us define "speech" operationally, not as an abstract. And when we apply that test, we know that child pornography is not "speech"-it is the photograph of a crime ... and the trophy of a predator. It cannot be produced without violating a child. It is per se contraband, and not within the orbit of First Amendment protection. If kiddie porn is "speech," then so is a snuff film.

All right then, what about the sanctity of words ... spoken or written? Again, definitions are key, as all words are not "speech" as defined by the Constitution. **"Leave a hundred thousand dollars in a paper bag at the bus station or you'll never see your child alive again."** Written words, sure ... but not "speech." The criminal law clearly recognizes some "speech" as conduct.

If we are going to call a kidnapper's ransom note "speech," we may as well call a thug's mugging "performance art."

I spoke earlier about child pornography. There are certainly those who, while admitting it is a crime to produce or distribute child pornography, claim they have a free-speech right to display it. That argument is another red herring (pun intended); another example of the threat to brand you as a "Censor" opposed to free speech.

And where is this specious argument most fervently advanced? On the holy Internet, of course. After all, the purveyors claim, they are just displaying, not selling, the material. Doesn't that prove their motives are pure?

To answer such sophistry requires no mind-reading ability. Kiddie porn on the Internet serves the same two major purposes it serves in any other forum ... and one unique to the medium. First, kiddie porn tells the child molester viewing it that he or she is not a freak, not alone in his degeneracy. He has comrades, supporters, and, most importantly, others who are both a potential source and a potential recipient of the same material. Indeed, most child sex rings begin with the traditional exchange of trophies, proof that they have children under their control, ready for exchange or rent. Second, kiddie porn is used to desensitize potential victims. It is no secret that children are highly susceptible to peer influence, and child pornography is part of every predatory pedophile's engagement repertoire ... "See, it's okay ... plenty of other kids do it." But the Internet has yet a third special use ... it has become the way to "test market" a product. A product which, if compared to other contraband such as narcotics, offers a great risk-vs.-return advantage. Especially if you can grow the product in your own home.

And, yet, the greatest danger of the Internet to vulnerable children is not the display of kiddie porn ... it is the very real potential for enticement. The process has been described as follows:

"It begins with fantasy, moves to gratification through pornography, then voyeurism, and finally to contact." The Internet is a superhighway down the path of that perverse pattern, giving child sexual predators instant access to potential victims and anonymity until a face-to-face meeting can be arranged.⁶

But, unlike those who confuse cynicism with intellect, I believe we can increase radically our protection of children without trampling on the First Amendment ... if we make it an exercise in problem-solving, not the exchange of slogans.

To achieve this, we must stop using immaturity as a two-edged sword. We don't let children vote or sign contracts because they lack the maturity to make informed decisions in their own self-interest. Must we be told to "leave them alone" when it comes to judging whether an on-line stranger is really who he claims to be? It's easy enough to say that this is the parent's responsibility. Well, as a parent, I can control (at least to some extent) what my child sees on our home computer. But if the library, in effect, removes the restrictions I have put in place, must I then bar my child from the library to protect him?

Ah, but the free-speech McCarthyites tell us, the Internet is neutral. It is a medium, not a message. And we wouldn't want to protect our children from knowledge, now would we?

Sure, the Internet itself is neutral. A piece of technology. A tool. It acquires significance not by what it is, but by how it is used.

So does a gun.

This is a classic example of how sloganeering—especially the kind driven by a belief-system rather than logic—can cloud even the most vital issues. Because, in truth, any NRA member who advocated that children be allowed to play with guns, unsupervised, would find himself alone, shunned by his fellow gun owners as either irresponsible or insane. Even those of us who hotly debate gun control have enough common sense remaining to join forces on that one critical point.

Now, for the predatory pedophile, accessing a child via the Internet is a lot easier (and safer) than trolling a playground. As I said before, in my opinion, the real danger of the Net to children lies in its interactive capability.

I would no more allow a young child unsupervised access to live "chat" on the Internet than I would allow him to play with my .357 magnum.

Does that make me a ... censor? I guess it depends on your definition. The actual ... as opposed to pedophile-serving ... definition is that it does not.

Does that mean if we restrict access to live Internet "chat" today, we will be restricting access to books tomorrow? Beware that sort of "logical extension" argument so beloved of manipulators. NAMBLA, the infamous "North American Man-Boy Love Association," for example, presents itself as a "gay" organization ... claiming their desire to have sex with male children places them on the extreme end of a homosexual continuum. Then they use the "First they came for the Jews" slogan to frighten gays into supporting them in the belief that, if they do not, they will be next. Here's NAMBLA's position ...

Our movement today stresses the liberation of young people. Freedom is indivisible. The liberation of children, boy-lovers, and homosexuals in general, can occur only as complementary facets of the same dream. ⁷

I would not dispute NAMBLA's "free speech" right to call themselves homosexual ... or even child advocates (another self-awarded title). And I assume they would not dispute the expression of my opinion that they are no more "homosexual" than a male who rapes a little girl is "heterosexual," and that all they really "advocate" is child molestation.

Here is my question for you: Could an obviously underage child check out an "R" rated movie from your library?

If libraries are going to provide interactive opportunities—be it "chat," Instant Messages, e-mail communication or any other form—why is permission from a parent not required? Indeed, while I am opposed to "filters"—which I believe to be an impotent remedy—I see no constitutional right to "chat" provided by public funds.

As a research tool, the Net has much to offer. But "chat" is not research. And while it most certainly is a form of "speech," the enticement of children for the sexual gratification of an adult is not a protected form of speech.

To be a predatory pedophile is to be a camouflage expert. Virtually all of their work is done by means of disguise. For every child molester who jumps out of a van wearing a ski mask, there are hundreds of thousands of silent predators. And, like any predator, they go where there is a plentiful supply of prey. The Internet is their ultimate stalking range.

Parents are told: monitor your home computer; make sure your child isn't vulnerable to predators; take responsibility. But it goes without saying that when my child is visiting the library without me, that same computer is now "open." Would requiring each underage user who wants to go on-line to show a permission slip from his or her parents be "censorship?" Would marking certain library computers as "adults only" be "censorship?"

Indeed, on what "free speech" grounds is interactive cyber-communication guaranteed by public funds? Anyone claiming that the failure of the public library system to offer free telephone service amounts to "censorship" would be dismissed as a loon. But the very word "Internet" has become a slogan all by itself, so zealously guarded by some that any restriction on its use is tarred with the "censorship" brush.

It's time to stop playing with vocabulary and ask the blunt questions. Here's one: Are you saying to the American people that if they allow their children access to the library, then they have implicatorily given their consent for pedophiles to have access to them? I don't think so. And I don't think that reasonable preventative measures are "censorship."

The power to name things is the power to control people. All of us here probably agree that censorship is wrong. But if we allow zealots or those with a covert agenda to define "censorship," it will not be free speech we are encouraging and protecting ... it will be child molesters.

Believe it or not, these remarks were not intended as a filibuster. I came here to be a resource, and I'm certain I would be more of a resource if I answered your questions instead of expounding, so

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Endnotes:

1. Board of Education, Island Trees Union Free School District No. 26 v. Pico, 457 U.S. 853, 867 (1982)
2. <http://www.cyberpass.net/~plf>
3. <http://www.cyberpass.net/~plf/links/enemies/html>

4. For ease of presentation, the male pronoun will be used throughout. However, while the majority of child molesters are male, female predatory pedophiles are a fact of life. And equally dangerous.
5. See, e.g., Recidivism of Child Molesters 20 Years After Treatment, by R. Karl Hanson* (York University), Richard A. Steffy (University of Waterloo), and Rene Gauthier (Hincks Treatment Center), presented at the 98th Annual Convention of American Psychological Association at Boston, August 13, 1990.
* Psychology Department, York University, 4700 Keele Street, North York, Ontario, Canada, M3J 1P3.
and ...
A Retrospective Evaluation of the Regional Treatment Centre Sex Offender Treatment Program, by Vernon Quinsey, Arunima Khanna, and P. Bruce Malcolm in The Journal of Interpersonal Violence, Vol. 13, No. 5 (October, 1998), pp. 621-644.
6. Dr. Chris Hatcher, Professor of Psychology, University of California, as quoted in A Safety Net for the Internet: Protecting Our Children by Daniel Armag, Juvenile Justice, Vol. V., No. 1, p.9, @ 10 (May, 1998), Office of Juvenile Justice and Delinquency Prevention.
7. <http://www.nambla.org>.

2. Supplemental Material from Kevin G. Higgins

[Mr. Higgins' testimony begins on page 19 of this publication.]

Public Internet Access Policy and Procedures: Key Elements, Washoe County Library System

Washoe County Library System Public Internet Access Policy and Procedures: Key Elements

- Adults (18 and over) may choose unfiltered access.
- Minors (under 18) may use the Internet station only with written permission from their parents. In giving permission, parents must choose in writing whether their child may have filtered or unfiltered access, and whether the child may use the Internet station without the parent being present. Parents receive information to help them make these decisions.
- All users, and parents of minors, sign a disclaimer acknowledging that the filter software (Cyber Patrol) is not guaranteed to block all access to potentially offensive material.
- Once a person is using an Internet station under the above procedures, our staff does not monitor or police the type of material the person is viewing, printing; or saving on a disk. We may intervene if the user is causing a disturbance, appears to be "hacking," etc. We use discretion in responding to patron requests for assistance.
- As much as possible, Internet stations are placed so as to provide privacy for the user. They are equipped with "privacy screens" (3M model PF450L) to minimize inadvertent public viewing.
-

Policy online: <http://www.washoe.lib.nv.us/staff/>
Click on "Public Access Issues"

Questions or comments to: John Kupersmith
Internet Services Librarian
jkup@washoe.lib.nv.us
(702) 785-4137

Public Internet Access Policy, Washoe County Library System

Public Internet Access Policy
Washoe County Library System
Adopted by Board of Library Trustees, September 17, 1997

As a service to our patrons, the Washoe County Library System is pleased to offer public access to the great wealth of cultural, educational, and reference resources available on the Internet.

The unique nature of the Internet requires that this access be governed by special policy provisions. The Internet is a largely unregulated communications and publication medium with highly diverse information content. It is not a library of professionally selected materials. Some information found on the Internet may be inaccurate, incomplete, outdated, or offensive to some individuals.

The Washoe County Library System provides links to selected Internet resources and offers suggestions and guidance, but we are not able to monitor or control information accessible through the Internet and cannot be held responsible for its content. Library patrons use it at their own risk. As with other media, each user is responsible for evaluating the quality, relevance, and appropriateness of materials found on the Internet.

The principle of free access to information in libraries is an important part of our mission. The library will not restrict adult users from viewing any material publicly and lawfully available on the World Wide Web.

Parents are responsible for deciding what their children may or may not access. Parental permission will be required for any Internet usage by minors. Parents will be encouraged to guide their children in this activity, and may specify that a child use the Internet only in their presence.

The technology available for filtering Internet content, though imperfect, will be offered to adult users and parents as an option, along with information about its limitations and risks. When filtering is requested, the software will be set only to the minimum level necessary to block access to pornographic, scatological, and grossly violent materials, but not to block access to other potentially controversial topics or expressions such as, but not limited to, profanity, sex education, nudity in art, religious cults, political extremism, racism, or drugs.

All library patrons have the right to an atmosphere that is conducive to learning and free from disruption. As much as possible, public Internet stations will be placed and configured to provide privacy for the user. Patrons will not be allowed to disturb or harass others, tamper with computer hardware or software, violate the security of computer systems, or use the Internet access for unlawful purposes.

Technology in this area is constantly changing. The attached procedures and forms indicate how this policy may be implemented. The Library Director is authorized to change these procedures and forms at any time, as conditions warrant, in ways that are consistent with this policy. Any such changes will be reflected in a revised document given to the Library Board of Trustees and available for examination in each library location.

Public Internet Access Procedures, Washoe County Library System

Public Internet Access Procedures
Washoe County Library System
Adopted by Board of Library Trustees, September 17, 1997
Amended by Library Director, August 31, 1998

These procedures and forms apply to public Internet access operated by the Washoe County Library System. They may be changed by the Library Director at any time, in ways that are consistent with the Public Internet Access Policy. Any such changes will be reflected in a revised document given to the Library Board of Trustees and available for examination in each library location.

Purpose and Scope

The purpose of this service is to provide an information resource, not a communications channel. It will include access to the World Wide Web, and telnet if possible, but not specialized software or individual accounts for e-mail, newsgroups, or interactive functions such as chat, MUDs (Multi-User Dungeons), or MOOs (MUDs, Object Oriented).

Filter Software

Filter software will be employed when requested by an adult user, or by the parent/guardian of a minor child using the service. We will not offer a variety of filter settings according to content. When filtering is requested, the software will be set only to the minimum level necessary to block access to pornographic, scatological, and grossly violent materials, but not to block access to other potentially controversial topics or expressions such as, but not limited to, profanity, sex education, nudity in art, religious cults, political extremism, racism, or drugs. Users will sign a statement acknowledging the imperfect nature of the software.

The Internet Services Librarian will evaluate any complaints about materials being blocked or not blocked by the software, and when appropriate, forward them to the vendor. Filter products and settings are subject to change as the technology evolves.

Access

Anyone sitting or standing at a public Internet station, whether operating the computer or looking on, is considered to be a 'user' and is subject to these procedures.

Adults (age 18 and over) may have access to any material publicly and lawfully available through the Internet functions being provided, or they may ask to have filter software activated.

Minors (under age 18) may use the Internet only with permission from their parents or legal guardians. Parents/guardians will be offered an option of filtered or unfiltered access for their children, along with information to help them make this choice and guide their children's Internet use. They may also specify that a child use the Internet only in their presence. Signed permission forms will be kept on file.

In addition to the provisions above, library policy regarding unattended children will apply to children nine years of age or younger using Internet access.

Before being granted access, each user must:

- Present identification, including proof of age if deemed necessary by staff. Users do not need to be Washoe County Library System cardholders.

- If a minor, have a signed parental permission form on file. This may be indicated by a note in the Dynix patron record.
- Fill out an Internet Log Sheet and if age 13 or over, sign a User Agreement which includes a statement acknowledging risks, limitations, and rules of usage.

When this is done, staff will verify that the station is set up correctly (including filter software if needed) before the patron begins his/her session. When a group of people want to use the Internet station together, the filter will be activated if it is required for anyone in the group.

Staff are responsible for seeing that no one uses the station without going through this screening and sign-in process. At the branch manager's discretion, depending on local circumstances, staff may hold the user's identification in exchange for the keyboard, and may offer advance reservations or impose time limits. Each user will normally have at least 30 minutes of access.

Information on permission forms and log sheet/user agreement forms will be treated as confidential library records and not revealed to anyone except library staff on legitimate library business, or except as may be ordered by a court of competent jurisdiction.

For black ink (one-color) printing, the first 10 pages or sheets are free, with 10 cents charged for each additional page. For color printing, the charge is a flat 10 cents per page (no free pages). Patrons may not save downloaded data on the library computers' hard disks (apart from the normal caching function of the web browser), but may save data on their own floppy disks.

Staff are expected to assist users as time allows. Decisions on appropriateness of requests for assistance can be made by the individual staff members involved. Generally, staff will help users with any type of material that could normally be purchased under the WCLS Materials Selection Policy. Staff will not knowingly help users access, print, or save on a disk any "visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in or simulate, sexual conduct" as prohibited by NRS.299.730.

Staff are not expected to conduct lengthy one-on-one instructional sessions. Public workshops will provide a basic orientation to the Internet, and web-based tutorials will be available.

Enforcement

Staff will not monitor or police what type of material patrons are viewing, printing, or saving on a disk. However, they are expected to respond appropriately when they observe violations of the rules of access contained in the Internet User Agreement.

For minor violations -- those that are disruptive in nature but that do not involve unauthorized access or damage to the computer -- staff will issue a warning to the user. If the warning is not heeded, staff will end the session and report the incident to the Internet Services Librarian. Examples of minor violations include attempting to remove a privacy screen from a monitor, or making undue noise.

For more serious violations -- those that involve unauthorized use of, or damage to, the computer -- staff will end the session immediately, and report the incident to the Internet Services Librarian. If the situation warrants, security officers and/or police will be called. Examples of serious violations include "hacking" or using unauthorized programs.

Users who tamper with the computer, introduce viruses, attempt to use it for "hacking" purposes, or otherwise violate the rules of usage may lose their access privileges either temporarily or

permanently. They may be held financially liable if their actions damage library computer hardware or software. Unlawful activities may result in criminal prosecution.

Internet Log Sheet and User Agreement, Washoe County Library System

**Internet Log Sheet and User Agreement
Washoe County Library System**

DATE _____

PRINT NAME _____

ADDRESS _____

PHONE _____

AGE: ___ UNDER 18 ___ 18 OR OVER

User Agreement -- complete this section if you are 18 or over

IN USING THE LIBRARY'S INTERNET ACCESS, I UNDERSTAND AND AGREE TO THE RULES OF ACCESS PRINTED ON THE REVERSE SIDE OF THIS SHEET.

I REQUEST THAT FILTERING SOFTWARE BE USED: ___ YES ___ NO

SIGNATURE _____

Library staff: complete this section:

Time in _____ Time out _____

Branch _____ Staff Initials _____

- Filter ___ ON ___ OFF

Parent/Guardian Present if Required? _____

Rules of Access, Washoe County Library System

Rules of Access

In using the library's Internet access, I understand and agree that:

- I am using this service at my own risk. The library is not able to monitor or control information accessible through the Internet and cannot be held responsible for its content. I am responsible for evaluating the quality, relevance, and appropriateness of any Internet resources that I access.

- If filtering software is used during my session, I understand that it will be set only to the minimum level necessary to block access to pornographic, scatological, and grossly violent materials, but not to block access to other potentially controversial topics or expressions such as, but not limited to, profanity, sex education, nudity, in art, religious colts, political extremism, racism, or drugs. I acknowledge that this software is not perfect and is not guaranteed to block everything in the intended categories, or other material that I may consider offensive. I hereby accept the risks attendant with such use. I understand that more detailed information about the filtering software is available on request.
- Files downloaded from the Internet may contain computer viruses. The library is not responsible for damage to my disk or computer, or any loss of data, damage, or liability that may occur from my use of library computers.
- I will not attempt to modify or tamper with the library's computer hardware or software, introduce viruses, or install or run any unauthorized programs.
- I will not attempt to gain unauthorized access to other computers or networks, violate the acceptable use polities of any network to which I connect, or improperly read, copy, misappropriate, alter, misuse, or destroy any information or files on this or other computers.
- I will not use this access for unlawful activities, including violations of copyright law or other rights of third parties, or transmission of obscene, threatening, or harassing material. It is a felony to possess "any film, photograph or other visual presentation depicting a person under the age of 16 years as the subject of a sexual portrayal or engaging in or simulating, or assisting others to engage in or simulate, sexual conduct" (NRS 200.730).
- I will not use this access to operate an online business, distribute commercial advertising, represent myself as another person, or in any other way that is inconsistent with the library's tax-exempt status or its proper operation.
- I will maintain a quiet and orderly atmosphere and will not disturb others in the library.
- If I violate this agreement in any way, I understand that I may lose my Internet access privileges temporarily or permanently. I may be held financially liable for any damage that I cause to library computer hardware or software. Unlawful activities may result in criminal prosecution.
- I understand that library staff will help me find information on the Internet as time allows, but they must also help others and they cannot provide extensive computer instruction. I know that Internet books, magazines, and classes are available.

Permission for Internet Access by a Minor, Washoe County Library System

Permission for Internet Access by a Minor Washoe County Library System

I am the parent or legal guardian of the child named below. In giving permission for this child to use the library's Internet access, I understand and agree, for myself and for the minor that:

- He/she will comply with the "Rules of Access" on the reverse side of this sheet.
- In addition to valuable information and educational resources, the Internet contains some material that may be inaccurate, incomplete, outdated, or offensive to some individuals, and some that may be considered inappropriate for children. The library is not able to monitor or control information accessible through the Internet and cannot be held responsible for its content. Library staff will not monitor or police what type of material my child is viewing,

U.S. National Commission on Libraries and Information Science

printing, or saving on a disk. I am responsible for deciding what my child may or may not access.

- If I so indicate below, filtering software will be used during my child's Internet sessions. This software will be set only to the minimum level necessary to block access to pornographic, scatological, and grossly violent materials, but not to block access to other potentially controversial topics or expressions such as, but not limited to, profanity, sex education, nudity in art, religious cults, political extremism, racism, or drugs. I acknowledge that this software is not perfect and is not guaranteed to block everything in the intended categories, or other material that I or my child may consider offensive. I hereby accept the risks attendant with such use. I understand that more detailed information about the filtering software is available on request.
- The Internet can be an exciting adventure for children, but it can also be confusing or even frightening. I acknowledge my responsibility to guide my child in this activity. I have received and read the publication "Keeping Your Child Safe on the Information Superhighway," and I know that I can ask the library staff for more suggestions if needed.

DATE _____

CHILD'S NAME _____ DATE OF BIRTH _____

CHILD'S WCLS LIBRARY CARD NUMBER (IF ANY) _____

I AM THIS CHILD'S PARENT LEGAL GUARDIAN

I MUST BE PRESENT WHEN THIS CHILD USES THE INTERNET YES NO

I REQUEST THAT FILTERING SOFTWARE BE USED YES NO

MY NAME _____ SIGNATURE _____

ADDRESS _____

PHONE _____

MY WCLS LIBRARY CARD NUMBER (If ANY) _____

Library staff complete this section

DATE PROCESSED _____ BRANCH _____ STAFF INITIALS _____

NOTE IN DYNIX PATRON RECORD? COPY SENT TO RENO REFERENCE?

[Rules of Access reproduced above]

Student Internet Rules of Acceptable Use, Washoe County School District

I understand that it is a privilege to use the Washoe County School District network to access to any public or other network, such as the Internet. I understand and agree with the following:

1. The privilege to use the Washoe County School District network to access public and other networks may be revoked by the District at any time for abusive conduct or violation of the conditions of use below. This includes, but is not limited to: the placing, transmission or deliberate access of obscene, abusive, or otherwise offensive,

objectionable or unlawful information on the network; the improper access, transferring or sharing of accounts, misappropriation or misuse of information or files of other users, and the use of obscene, abusive, or otherwise offensive or objectionable language in any form using Washoe County School District access. The District reserves the right to determine what constitutes abusive conduct or violation of District policies.

2. The Washoe County School District has the right to review any material stored in District files and to edit or remove any material which the District, in its sole discretion, believes may be unlawful, obscene, abusive, or otherwise objectionable. I hereby waive any right of privacy which I may otherwise have in and to such material.
3. All information and services contained at Internet access points in the District are placed there for general information purposes and are, in no way, intended to refer to, or be applicable to, any specific person, case, or situation.
4. I am using this service at my own risk. The WCSD is not able to monitor or control all information accessible through the Internet and cannot be held responsible for all content.
5. Files downloaded from the Internet may contain computer viruses. The WCSD is not responsible for damage to my disk or computer, or any loss of data, damage or liability that may occur from my use of WCSD computers.
6. I will not attempt to modify or tamper with the WCSD's computer hardware or software, introduce viruses, or install or run any unauthorized programs.
7. I will not attempt to gain unauthorized access to other computers or networks, violate the acceptable use policies of any network to which I connect, or improperly read, copy, misappropriate, alter, misuse, or destroy any information or files on this or other computers.
8. I will not use this access for unlawful activities, including violations of copyright law or other rights of third parties, or transmission of obscene, threatening, or harassing material.
9. I will not use this access to operate an online business, distribute commercial advertising, or represent myself as another person.
10. If I violate this agreement in any way, I understand that I may lose my Internet access privileges temporarily or permanently. I may be held financially liable for any damage that I cause to District computer hardware or software. Unlawful activities may result in criminal prosecution.
11. I agree to abide by WCSD School Board Policies 6161 and 6163, and NRS Chapter 201, 388, 390, 393, and PL 94-553. Copies are available for review in the school library and from the site administrator.

Student Name: _____ School/Location: _____
Print: Last Name, First Name

I have read the above Internet Rules of Acceptable Use and agree to abide by their provisions. I agree that violations of the agreement may result in the revocation of my public network access and related privileges.

Student Signature: _____ Date: _____

School: _____

Parent Permission to Use The Washoe County School District Internet Access

I am the parent or legal guardian of _____. In giving permission for my son/daughter to use the WCSD network to access the Internet, I understand and agree, for myself and for my son/daughter that:

1. I have gone over with my child the Internet “Rules of Acceptable Use” on the reverse side and he/she will comply with these rules.
2. WCSD encourages use of the Internet’s valuable information and educational resources in an age-appropriate manner consistent with WCSD curriculum objectives; however, the Internet contains some materials that may be inaccurate, incomplete, outdated, or offensive to some individuals, and some that may be considered inappropriate for children.
3. The District and its employees are not liable for any direct or indirect, incidental, or consequential damages due to information gained and/or obtained via use of District access, including, without limitations, access to other networks.
4. The Washoe County School District does not warrant the functions of the District network or any of the networks accessible through District access points will meet any of the specific requirements you may have, or that the District access will be error free or uninterrupted. The District will not be liable for any direct or indirect, incidental, or consequential damages (including lost data, information or profits) sustained or incurred in connection with the use, operation, or inability to use Washoe County School District access.
5. In consideration for the privilege of using District network access and in consideration for having access to the public networks, I hereby release the Washoe County School District and its staff, administrators, operators, and any institutions with which they are affiliated from any and all claims and damages of any nature arising from my use, or inability to use, Washoe County School District access including, without limitation, the type of damages identified in paragraphs 4 and 5 above.
6. The Internet can be an exciting adventure for children. I understand that I can obtain additional information about Internet use from my child’s school or library.

I have read the above Internet Access Agreement. I give my permission to issue an access account for my child. I understand and agree that violations of the agreement may cause my child’s access privileges to be revoked.

Parent/Guardian Signature: _____ Date: _____
(Required if a user is under age 18)
Address: _____ Home Phone: _____
_____ Work Phone: _____

Washoe County School District Staff Internet Acceptable Use Agreement

As a condition of the privilege to use Washoe County School District access to any public or other networks, such as the Internet, I understand and agree to the following:

1. That the use of the Washoe County School District access, including use to acceptable public and other networks, is a privilege which may be revoked by the Washoe County School District at any time for abusive conduct or violations of the conditions to use set forth herein. Abusive conduct includes, but is not limited to, the placing, transmission or deliberate access of obscene, abusive, or otherwise offensive, objectionable or unlawful

information on the network, the improper access, transferring or sharing of accounts, misappropriation or misuse of information or files of other users, and the use of obscene abusive, or otherwise offensive or objectionable language in any form using Washoe County School District access. The Washoe County School District will be the sole arbiter of what constitutes abusive conduct or violation of the Washoe County School District policies.

2. That the Washoe County School District has the right to review any material stored in Washoe County School District files and to edit or remove any material which the District, in its sole discretion, believes may be unlawful, obscene, abusive or otherwise objectionable, and I hereby waive any right of privacy which I may otherwise have in and to such material.
3. That all information and services contained at Internet access points in the Washoe County School District are placed there for general informational purposes and are, in no way, intended to refer to, or be applicable to, any specific person, case, or situation.
4. That the Washoe County School District will not be liable for any direct or indirect, incidental, or consequential damages due to information gained and/or obtained via use of Washoe County School District access, including, without limitations, access to other networks.
5. That the Washoe County School District does not warrant the functions of the Washoe County School District network or any of the networks accessible through Washoe County School District access points will meet any of the specific requirements you may have, or that the Washoe County School District access will be error free or uninterrupted; nor shall the Washoe County School District be liable for any direct or indirect, incidental, or consequential damages (including lost data, information or profits) sustained or incurred in connection with the use, operation, or inability to use Washoe County School District access.
6. The user agrees to abide by such rules and regulations of usage as may be made known from time to time by the Washoe County School District policy.
7. In consideration for the privilege of using the Washoe County School District access and in consideration for having access to the public networks, I hereby release the Washoe County School District and its staff, administrators, operators, and any institutions with which they are affiliated from any and all claims and damages of any nature arising from my use, or inability to use, Washoe County School District access including, without limitations the type of damages identified in paragraphs 4 and 5 above.

Staff/Name: _____ School/Location: _____
Print: Last Name, First Name

I have read the above Internet Access Agreement and the attached District Policy and agree to abide by their provisions. I agree that violations of the agreement may result in the revocation of my public network access and related privileges.

Staff Signature: _____ Date: _____

Address: _____ Home Phone: _____

_____ Work Phone: _____

Public Internet Access In Partnership Libraries

The Washoe County School District (WCSD) and Washoe County Library System (WCLS) jointly operate six partnership libraries. The two agencies have agreed on the following arrangement for public Internet access in these facilities:

- Internet access on WCSD equipment will continue to be restricted to students, faculty, and staff who qualify under WCSD policy. This also includes WCLS staff working at these locations.
- WCLS will install its own equipment and network connections in these libraries.
- If the principal of a school agrees, WCSD staff will make WCLS Internet access available during school hours. WCLS policy and procedures, including parental permission requirement for minors, will be followed, with one exception: filter software will be turned on at all times during school hours, with no unfiltered option.
- A time delay will be instituted after the final school bell, to allow the school to clear out (length of delay to be set by each site depending on conditions). During this period, "school hours" conditions will apply.
- After the time delay, full WCLS Internet access will be available, including unfiltered option for adults and for minors by permission.
- Parents in the schools involved will be notified that this will be taking place.

The diagram on the reverse side [below] shows the protocols that would apply at various times of day.

	School District (WCSD) computer/connection/policy	Public Library (WCLS) computer/connection/policy
During school hours	WCSD staff implement WCSD policy for: <ul style="list-style-type: none"> • Students • WCSD staff • WCLS staff 	<i>(If principal agrees)</i> WCSD staff implement WCLS policy With filter on for all: <ul style="list-style-type: none"> • Students • WCSD staff • WCLS staff • Public

During public hours	WCLS staff implement WCSD policy for <ul style="list-style-type: none"> • Students • WCSD staff • WCLS staff 	Time delay after the final school bell, to allow the school to clear out (length of delay to be set by each site depending on conditions) After time delay: WCLS staff implement WCLS policy for <ul style="list-style-type: none"> • Students • WCSD staff • WCLS staff • Public
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Dear Parents: Welcome to the Partnership Library!

Dear Parents:

Welcome to the Partnership Library!

Our school library is a Partnership Library with the Washoe County Library System, becoming a full branch library for the community during certain hours of the school day. This means that your child will have the opportunity to use all of the library collections *in* the County, which he or she can search electronically. This will be a great advantage to both students and the community, allowing access to a much greater range of materials than they would ordinarily have in just the school library. The Washoe County Library will be improving the current school library collection by adding the full range of materials available in other branches.

If your child now has a Washoe County Library card, he or she will be able to check out any of the materials in the library or order materials from other libraries. If your child does not have a library card, he or she can use the materials while in the library, but will not be able to check them out. Since a Washoe County Library card is required to check out all materials, we have included an application for a library card with this letter. It must be filled out and signed by a parent or guardian granting permission for your child to check out library materials.

Unless you tell us otherwise in writing we will assume that every child has permission to use all of the materials in the library. If you **do not** want your child to have full access to library materials, please write a note to the librarian.

While the School and County librarians make every effort to ensure that a child is using age-appropriate materials, it is ultimately your responsibility as a parent to monitor the materials your child is checking out. The library does not limit the number of items your child may check out in most cases.

The School District and the public library system administer Internet access under separate policies and on separate computers. Applications for Internet access are available at each partnership site. If you wish your child to have Internet access you may complete either or both policies, depending on

your preference. Copies of the policies are available on request. The Washoe County Library System does not currently offer an Internet station in your: branch, but hopes to add one within the next year.

Since this is a community, library, the public will be allowed to use the library during the following times [insert public hours]. If you need to use the library or want to bring other children, you and your family are welcome during these times.

If you have any questions; about the Partnership Library at our school, please call the school librarian or Sally Kinsey with the Washoe County Library at 785-4009. The Partnership Library will provide you and your child the many benefits of a public library in your neighborhood. We hope you and your family are able to take advantage of this unique opportunity.

Partnership Library Advisory Committee

Keeping Your Child Safe On the Information SuperHighway

Keeping Your Child Safe On the Information SuperHighway
A Parent's Guide

Nevada High Technology Crime Task Force
Office of the Attorney General

Frankie Sue Del Papa
ATTORNEY GENERAL

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Carson City, Nevada 89701-4717
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Web Site: <http://www.state.nv.us/ag/>

Introduction

The Internet is truly an amazing recreational and educational resource for your child. A wealth of information and entertainment from around the globe is available in your home -- just a mouse click away. A child's experience on the Information SuperHighway can expand awareness of other cultures, improve grades at school by accessing enormous amounts of information, and provide hours of safe entertainment.

Parents need to be aware that, for all a child derives from surfing the Internet, there are some dark and dangerous off-ramps on the SuperHighway. Criminals of all types - pedophiles, scam-artists, hate-mongers, racists, and the mentally ill can lurk in the cul de sacs of the Internet. While these criminals are few, they can pose a substantial threat to your child. The risks are threefold:

1. Exposure to material inappropriate for children.
2. Exploitation by sexual predators.
3. Frauds perpetrated on the innocent.

This booklet is intended to provide parents with some critical information to help monitor and control their child's behavior on the Internet. Parents want to ensure that the Internet experience represents a

productive employment of their child's time. You, as a busy parent, may not have the computer proficiency that your child possesses. This brochure attempts to explain, in a non-technical manner, some of the ins and outs of the Internet and suggests some simple steps you can take to better protect your child.

The Need for Ground Rules

Even if you can't tell the difference between a computer and a microwave oven, you should establish family ground-rules for accessing the Internet. Your technical capabilities and lack of time may limit your involvement but you *can* shape web surfing into a family activity. Here is a common sense approach to family Internet use:

- Tell your child that you control his or her access to the Internet and that he or she is expected to stay within your guidelines.
- Locate the computer in a central, communal area of the house. Put it in the family room or den -- not in a child's bedroom.
- Establish specific times when access to the Internet is permitted and keep to that schedule.
- If your child uses a computer at school, call and see if his or her school has adopted an "acceptable use policy" for the Internet. Ask for a copy of this "AUP" and use it to establish your own guidelines at home.
- Limit the length of access time. This will encourage your child to go directly to the information required, rather than wander aimlessly around the Internet.
- Explain to your children that many sites on the Internet are not appropriate for children and they are expected to stay away from them.
- Encourage communication between you and your children. Ask about their Internet experiences and what they have learned.

Gain knowledge about the Internet. The easiest way to do this is to have your child show you how to log on and move around. This makes the Internet a shared family experience and allows you to assess your child's capabilities. The more technically astute the child, the greater the risks.

How to Gain Knowledge

Pick up a book on the Internet or attend a class. There are many non-technical books available that will show you the ropes. The best way to learn is just to log on and start surfing. The Internet is so easy to navigate that anyone can do it.

What is the Internet?

The Internet is essentially hundreds of thousands of computer systems from around the world linked together. The individual, company, or agency that owns it controls each of these systems. There is no single authority which controls these computers (also called "sites" or "nodes"), and the number of sites in the network is constantly changing and growing. It is this lack of authority that makes the Internet so compelling -- each site owner can post the information that he or she wishes. But, this unchecked freedom does have a downside, as we shall see.

Your home computer is not one of the "sites" on the Internet. You must contract with an "Internet Service Provider", (or "ISP"), to gain access to the net. The ISP is your gateway to the vast numbers of computer systems on the net.

There are several methods of communicating on the Internet:

- The World Wide Web
- International Relay Chat
- Usenet
- Email
- FTP and Telnet

This booklet discusses the first four - by far the most used. Your child is unlikely to be using FTP and Telnet, but if so, the principles discussed apply just the same.

The World Wide Web

The WWW is the most popular method of Internet communication. These are the colorful and entertaining "websites" you can access to gain information. Many of these sites are commercial in nature -- they exist to sell goods and services. Transactions are typically carried out by credit card. This is a billion dollar a year industry which is growing rapidly. The Internet can be an efficient shopping venue -- if you keep the following in mind:

- Deal only with sites you know to be reputable, such as established companies with which you would be comfortable doing business outside the Internet.
- Find out the vendor's warranty and return policy before you buy.
- Some goods are more suitable for electronic trade than others. Books and electronic equipment are easily and accurately described on Web pages -- clothing and art may or may not be as depicted.
- The old adage "If it sounds too good to be true it probably is" applies to the Internet, as well.

There are many websites on the Internet that display and sell pornographic pictures. Some of these sites take active measures to assure that pornographic images are not available to children, but many do not. Typically they publish lurid or obscene materials on their opening "page" to entice customers. The screening mechanism for determining whether or not the site visitor is an adult is the assumption that if a credit card is available, then the visitor must be at least 21. Many children are clever enough to circumvent the screening methods employed. Here's what you can do:

- Make it clear to your child you are aware that there is pornographic material on the net, and that looking at such material on the net is forbidden.
- Explain that if the URL (Uniform Resource Locator - the site's address) has adult language in it, the site is not to be visited.
- If the child has access to a credit card, instruct the child never to give it out over the Internet.
- Instruct your child to talk to you if he or she ever finds anything on the Internet that makes them feel uncomfortable.
- Maintain a continuing dialogue with your child. This does not mean constantly peering over his or her shoulder, but take some time to find out what Internet services your child uses and why.
- Consider restricting your youngster's searches to known worthwhile sites. The American Library Association has evaluated 700 sites as great for kids. Their URL is: <http://www.ala.org/parentspage/greatsites/>.
- Make sure that Internet guidebooks ("Yellow Pages") which your child owns do not include adult listings.

If you make web surfing a shared family experience, you should have few problems in this area.

International Relay Chat

IRC or simply "Chat" is essentially a text based CB radio on the Internet. Two or more people get together, electronically, on a server and write messages to each other. Chats usually are conducted in a "themed" room. Thus, individuals with a mutual interest can communicate. Some of these chat rooms have sexually explicit themes.

This is a very problematic area for children. Everyone who signs in to a chat room does so under a nickname -- thereby remaining anonymous. Your child may believe she is chatting with a sixteen-year-old cheerleader from San Diego, who in reality is a 48-year-old pedophile from Sacramento. Recent news has shown how dangerous this can be -- particularly when the pedophile lures the child into a face-to-face meeting. Ground rules:

- Tell your child never to give out his or her full name. Don't allow use of the profile feature in the chat software.
- Instruct your child to never reveal any personal information -- school, address, phone number, personal family situation, etc.
- Try to find moderated chats with appropriate themes. The larger ISPs, (America On-line, for example), have moderated chats.
- Tell your child to leave a chat room if obscenities are exchanged.
- Instruct your child to notify you immediately if someone asks to meet them in person or send photographs.
- Tell your child never to send or receive a file in a chat room without your permission.
- Discuss the chat with your child.
- Spend 5 or 10 minutes reading the messages appearing in a chat room in which your child has shown interest.

Consider restricting your children from chat rooms altogether. This has a great deal of merit. Since there is no way of confirming the identity of the persons in the chat room, or the truth of the conversation, many parents feel that chat rooms are not only a safety risk, but a waste of time.

Usenet Groups and Email

Usenet groups are essentially bulletin boards where individuals post messages and files. This can be very beneficial for your child if he or she has a special interest, hobby or avocation.

Unfortunately, some of these "Newsgroups" have a sexual theme -- members exchanging pornography. Others serve as a forum for racists and hate-mongers. The names of these groups generally have an "alt." (for alternative) prefix in their title. As a parent you may want to be sure that your child enlists in groups that share your values. Fortunately, this is easy to do:

- Find out what newsgroup your child wants to join and why. Restrict your child to that group.
- If you have problems, consider signing up with an ISP that restricts adult newsgroups.
- Again, maintain a dialogue with your child.

Some newsgroups are engaged in the "pirating" of software. Pirating is the illegal copying of commercial software. These newsgroups typically have the name "warez" in their title. Some people today erroneously believe that copying software that they do not pay for is not really theft. It is theft

and you may get caught. The reason software is so expensive is that the software companies must pass the cost of the lost revenues on to those who do pay. Steps you can take:

- Restrict your child from "warez" groups.
- Explain to your child that pirating is theft, and won't be tolerated.
- If you have "borrowed" software from a friend, remember what kind of example you are setting.

Email is an area with which you should have few problems -- since it is maintained on the ISP server and is accessible to you. As a practical matter, tell your child not to give out the Email account address to anyone without your permission, and never to reveal any passwords.

Some Red Flags

Here are a few pointers on what to look for if the Internet is becoming a problem:

- Secretive behavior on the computer. Making the parent feel unwelcome at an on-line session.
- Unexplained loss of capacity on the computer's hard-drive. (It may be crowded with pornographic image files, which are typically very large).
- A sudden new friend you don't know.
- Excessive time on the Internet.
- Hidden floppy or Zip disks which may be used for storage of inappropriate or illegal files.

Monitoring Your Child's Usage

It is worthwhile to occasionally check your child's computer system. Use the file manager of your operating system to examine the hard drive for offensive files. These graphic files usually have a GIF, TIF or JPG file extension. These files can be hidden so make sure that your file manager is set to show hidden files. The nature of the file can be disguised by changing its name. Look for software programs (files with an EXE file extension) that you do not own. Review your browser's history list. Make sporadic checks of your child's floppy disks. Be aware that a savvy child can defeat any of these monitoring activities. For a pamphlet describing, in more detail, methods for monitoring the use of your computer, contact Charlie Stokes at the Attorney General's Office at 684-8931.

Software Products that Help You Protect

There are a number of inexpensive computer software products that can help you monitor and control your younger children's access to the Internet. "CyberPatrol", "SurfWatch", "CyberSitter" and "NetNanny" are a few of the better known brands. Consult with your ISP or computer dealer for more information. You should also have a good virus protection software package. A virus is a software program, hidden in files on the Internet, designed to corrupt files on your computer system. Since your child will likely be downloading files from the Internet, you might pick up a virus which can damage your computer system.

Conclusion

The Internet is a wonderful tool, which, when used correctly, can greatly enhance the educational opportunities for your child. We hope the information we have provided you will help ensure that your family enjoys safe and fun cruising on the Information SuperHighway.

If you are interested in assisting the Nevada High Technology Crime Task Force, a group of representatives from law enforcement and the business community working together to fight high tech crime, *contact the Attorney General's Office* (Anne Cathcart at 687-4710, or Kevin Higgins at 688-1818). Your suggestions, comments and ideas are welcome.

Feb. 1998

High Tech Crime

HIGH TECH CRIME

* *

Tips for Businesses
To Fight
High Tech Crime

* *

Nevada High Technology Crime Task Force
Office of the Attorney General

Frankie Sue Del Papa
ATTORNEY GENERAL

100 N. Carson Street
Carson City, Nevada 89701-4717
(702) 687-4170

HIGH TECH CRIME IS THE FASTEST GROWING THREAT IN THE AGE OF THE INTERNET – EVERY BUSINESS IS AT RISK. THE ATTORNEY GENERAL AND NEVADA'S HIGH TECH CRIME TASK FORCE OFFER THESE TIPS:

REVIEW SECURITY MEASURES:

1. Inventory and tag all equipment; keep operating manuals, warranties and proof of purchase. Have a reputable security specialist analyze your security procedures. Ask local law enforcement for their advice. If you hire security staff, provide them with adequate training.
2. Adopt written procedures for security and for the use of all high tech equipment including disposal of obsolete or broken equipment. Specify for what purposes the equipment may or may not be used, and whether the company is the owner of all work produced with company equipment.
3. High tech spies target insiders, repair persons, janitors, customers and consultants. Be cautious about divulging security information to others.

EMPLOYEES:

1. Conduct thorough background checks on all new employees, including temporary hires. Include criminal background checks where authorized by statute. Do not allow temporary staff access to sensitive data.

2. Train employees to be careful with sensitive data. Require that all waste documents be shredded.
3. Change passwords and locks when an employee is terminated or otherwise leaves your business.
4. Teach delivery staff techniques for avoiding cargo theft.

COMPUTERS:

1. Require employees to keep passwords confidential; change passwords frequently.
2. Periodic audits of company records should be conducted by a reputable service experienced in auditing computer accounts. Traditional accounting controls should not be abandoned when an office is computerized.
3. Require employees to back up their computers at least once per day. Adopt procedures for making hard copies of computer produced information. Secure backup tapes and diskettes.
4. Take steps to ensure that client information (financial, medical, legal or otherwise) is adequately secured.
5. Ensure that every computer operation can be handled by at least two employees.
6. Maintain adequate surge and anti-virus protection.
7. Remove all data from the hard drive before disposing of your old computer.

THE INTERNET:

1. Check the Internet for your own product. This may help you uncover scams or false representations involving your product or service.
2. Don't keep banking or other confidential data on the same computer on which you have Internet service.
3. Train employees regarding the hazards of divulging personal or confidential information on the Internet.
4. Adopt written procedures for the use of Internet services by employees.

TELECOMMUNICATIONS:

1. Establish procedures for the use of long distance service, cell phones, and other telecommunications equipment.
2. Verify the identity of people representing themselves as phone company technicians or repair persons by calling the company itself.
3. Be wary of delivery persons who ask to use your phone. Require that your staff place the call.
4. Train your staff to be on the alert for "phone clones" and to report any unusual telephone activity or billings.

IDENTIFICATION:

1. Train employees to check credit card numbers and to compare information on the face of a credit card with the information printed out on the receipts.
2. Businesses which employ drivers should be alert for false drivers licenses and auto insurance certificates.
3. Develop a system for marking or coding purchase orders, checks and other documents involving the financial transactions of your business so you will know if they are yours or are counterfeits.
4. Require fingerprints from customers presenting checks, money orders or traveler's checks.

GENERAL TIPS:

1. Be alert for suspicious behavior, such as the unexplained presence of persons in unauthorized areas.
2. If you observe anyone rummaging through garbage for papers, notify local law enforcement.
3. Adopt a "zero tolerance" approach toward high tech criminals. Prevent crime as best you can, but when it is detected, insist on pressing criminal charges and pursue all available civil remedies.
4. Knowing how your company's high tech equipment works will help you understand how to protect your business.

Take any training which is offered at the time you purchase high tech equipment, read the manuals and get some "hands-on" experience with the new product.

Protecting your business from high tech crime does not have to be expensive or time consuming. The University of Nevada at Reno is sponsoring a series of seminars beginning in February 1998 to help small businesses learn from experts and law enforcement how to prevent high tech criminals from stealing equipment, sabotaging or stealing customer and client information, charging long-distance calls to a business account, and using counterfeit checks and false identification to obtain products or services. To learn more about these seminars, contact the State Training Director, Nevada Small Business Development Center at 784-1 717.

If you are interested in assisting the Nevada High Technology Crime Task Force, a group of representatives from law enforcement and the business community working together to fight high tech crime, contact the Attorney General's Office (Anne Cathcart at 687-4710, or Kevin Higgins at 688-1818). Your suggestions, comments and ideas are welcome.

09/14/98

3. Supplemental Material from Toby Levin

[Ms. Levin's testimony begins on page 25 of this publication.]

PowerPoint Slide Presentation of Toby Levin

Children's Privacy Online

Toby Milgrom Levin
Federal Trade Commission

Disclaimer

- My comments do not necessarily represent the views of the Federal Trade Commission or any of its Commissioners

Children and FTC's Historical Role

- Federal Trade Commission Act
 - ▶ Section 5 -- deceptive or unfair practices
 - ▶ advertising to children

Marketing to Kids on the Internet

- a new medium but familiar concerns
- Westin/Louis Harris Survey of Net Parents
 - ▶ 97% believe Web sites should not collect identifiable information and sell it or rent that information to others
 - ▶ □ 72% object to its collection even if it is used only for internal purposes

FTC's Approach to Online Privacy: www.ftc.gov

- FTC Workshops: 1995 - 1997
- Facilitated discussion among industry, consumer and privacy advocates, and government
- Encouraged self-regulation

FTC Report to Congress (June 1998)

- Summarized Fair Information Practices
 - ▶ notice, choice, access, security
- Assessed Industry's Self-Regulatory Efforts
 - ▶ Trade Association Guidelines
- Assessed Online Information Collection and Privacy Protection

FTC Conducted Survey of 1,402 .com Sites

- All Commercial Sites (674 sites)
- Health (137 sites)
- Retail (142 sites)
- Financial (125 sites)
- Most Popular (111 sites)
- Children (212 sites)

Children's Survey Findings

- 89% of children's sites collect personal information from children
- Of those children's sites that collect a child's name and/or e-mail address
 - ▶ 21% collect 5 or more types of personal information
 - ▶ 35% collect 4 or more types of personal information
 - ▶ 48% collect 3 or more types of personal information

Privacy Disclosures on Children's Sites

- 24% post a "privacy policy"
- less than 10% provide for meaningful parental involvement
 - ▶ 7% say they will notify parents of their information practices
 - ▶ only 1% provide for prior parental consent (opt-in)

Commission Recommended Children's Legislation

- Senators Bryan and McCain introduced S 2326
- Children's Online Privacy Protection Act of 1998

Children's Online Privacy Protection Act of 1998

- privacy protections for children's identifying information
- parental involvement
 - ▶ notice
 - ▶ choice
 - ▶ access
 - ▶ security
- safe harbor for certified industry guidelines

Children's Online Privacy Protection Act of 1998

- Who is covered?
 - ▶ commercial websites and online service providers
 - ▶ exemption for true non-profit websites
 - ▶ websites or areas of sites directed to children
 - ▶ websites that knowingly collect children's personal identifying information

Children's Online Privacy Protection Act of 1998

- scope
 - ▶ personal information: identifying or linked to identifying information
 - ▶ personal information collected from children ages 12 and under

Children's Online Privacy Protection Act of 1998

- notice to parents of websites' information practices
- obtain prior parental consent to collection of personal identifying information from their child

Children's Online Privacy Protection Act of 1998

- obtain prior parental consent for activities such as chat rooms, pen pal programs, message boards which may make information publicly available.
- provide parents access to information collected from their child
- provide security for the information collected

FTC

- Issue regulations within one year
- April 2000 earliest effective date

FTC

- In the interim: July 1997 Staff Opinion Letter Regarding Children's Privacy
 - ▶ notice must be made to the parent to be effective
 - ▶ deceptive to misrepresent a site's information practices
 - ▶ likely an unfair practice to disclose identifying information to third parties or to make it publicly available (chat rooms, key pals, etc.) without first obtaining parental consent

Conclusion

- COPPA provides a basic level of privacy protection for children's information collected by U.S. commercial children's websites
- It does not address:
 - ▶ online distribution of adult material to children
 - ▶ information practices of non-commercial websites
 - ▶ privacy protections for children over age 12

COPPA can set a model for privacy protection on the Internet

Prepared Statement of the Federal Trade Commission for a Hearing Before the U.S. Senate

Prepared Statement of the Federal Trade Commission Before the Subcommittee on Communications
of the Senate Committee on Commerce, Science and Transportation,
United States Senate on "Protection of Children's Privacy on the World Wide Web,"
Washington, DC, September 23, 1998

Mr. Chairman, I am Robert Pitofsky, Chairman of the Federal Trade Commission; and I am pleased to appear before you today to offer the Commission's views in support of S. 2326, the "Children's Online Privacy Protection Act of 1998" introduced by Senators Bryan and McCain to protect children's online privacy.⁽¹⁾ I would like to discuss with you the Commission's role in addressing online privacy issues generally, our findings and concerns with respect to children's online privacy, the industry's self-regulatory efforts to address these concerns, and why we believe that the legislation this Committee is considering is both appropriate and necessary.

I. Introduction

The Commission believes that legislation such as S. 2326 is important and necessary to protect the privacy of our youngest consumers when they go online. The Commission initially made this recommendation to Congress last June in *Privacy Online: A Report to Congress* (the "Report").⁽²⁾ Much of the Report is devoted to describing and analyzing the results of a comprehensive survey of commercial sites on the World Wide Web, including 212 children's sites. The survey revealed that a significant amount of identifying information is collected from children without any apparent parental involvement. The Report concluded that although some industry groups have taken steps to promote greater privacy protection for children online, self-regulatory efforts have not produced an adequate level of protection. The FTC therefore recommended that legislation be enacted to bolster ongoing self-regulatory initiatives to protect children online, to encourage others to undertake such initiatives, and to provide statutory standards that would govern businesses that do not participate in self-regulatory programs.

II. The Role of the FTC in Online Privacy Issues

FTC Law Enforcement Authority

The Commission's mission is to promote the efficient functioning of the marketplace by seeking to protect consumers from unfair or deceptive acts or practices and by promoting vigorous competition. The Commission's responsibilities are far-reaching. Its primary legislative mandate is to enforce the Federal Trade Commission Act, which prohibits unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce.⁽³⁾ With the exception of certain industries, this statute provides the FTC with broad law enforcement authority over virtually every sector of our economy.⁽⁴⁾ Commerce on the Internet falls within the scope of this statutory mandate.

The protection of children has long been an important part of the Commission's consumer protection mission. Over the years the Commission has brought numerous cases challenging unfair or deceptive marketing practices involving children,⁽⁵⁾ and has encouraged industry self-regulatory bodies to address these concerns. The FTC has also worked closely with Congress to fashion appropriate responses to new problems when they occur.⁽⁶⁾

Activities Relating to Online Privacy

The Commission has been involved in addressing online privacy issues affecting both adults and children for almost as long as there has been an online marketplace. Through a series of workshops and hearings, it sought to understand this new marketplace and its information practices, to assess the impact of these practices on consumers, and to encourage and facilitate effective self-regulation. The Commission's efforts included bringing industry and consumer and privacy advocates together to address online privacy issues, including children's privacy, and challenging industry leaders to develop and implement meaningful self-regulatory programs. The Commission's activities in this area were based on the understanding that personal information can be collected and widely disseminated on the Web at low cost and with unprecedented ease. The Commission also recognized that greater protection of personal privacy on the Web will not only protect consumers, but also increase consumer confidence and ultimately consumer participation in the online marketplace.

III. The Collection of Information from Children Online

The Commission has paid especially close attention to the growing area of marketing to children on the Internet. The advent of this new medium -- with its new methods of providing information and communicating through Web sites, electronic mail, news groups, chat rooms, electronic bulletin boards, and commercial online services -- is an historical development much like the introduction of television or, a few generations earlier, the telephone. The Internet presents children with an extraordinary new means to tap into rich sources of information that previously were difficult to access, and to communicate with their peers and others in ways never before imaginable. In addition, the Internet's technology enables marketers to establish direct and ongoing one-to-one relationships with individual children in ways previously unavailable to traditional media.

Growth in the Number of Children Using the Internet

Children are using the Internet in growing numbers.⁽⁷⁾ In 1998, almost 16 million of America's 69.6 million children under age 18 are reported to be online, almost doubling the number of children (9.8 million) reported to be online only one year ago.⁽⁸⁾ Over 6 million of these children are age 12 and under, up from the 3.5 million reported to be online in 1997.⁽⁹⁾ These figures show a dramatic increase in the presence of children on the Internet. Children are also avid consumers and represent a large and powerful segment of the marketplace.⁽¹⁰⁾ The increasing number of children online coupled with their growing economic impact create enormous opportunities for marketers to promote their products and services to an eager, targeted, and vulnerable audience.⁽¹¹⁾

The Collection of Information from Children Online

Online marketers have responded to this opportunity. Last March, Commission staff conducted an extensive survey of the information practices of commercial Web sites on the World Wide Web (the "Web"), including 212 children's commercial Web sites.⁽¹²⁾ Our survey found that almost 90% of the children's Web sites are collecting personal information from and about children.⁽¹³⁾ Children's sites collect personal information from children through a variety of means, including registration pages, user surveys, online contests, electronic pen pal programs, guest books, and application forms.⁽¹⁵⁾ In addition to collecting personal information directly from a child, a child may reveal his or her personal information in the course of participating in chat rooms or posting messages on electronic bulletin boards -- areas that are publicly accessible to anyone surfing the Web.

In contrast to the real world, where such information ordinarily would be solicited from young children only with the involvement of a parent, in cyberspace the vast majority of children's sites collect personal information without notice to, or even an opportunity for control by, parents. Fifty-four percent of the children's sites surveyed provide some form of a statement about the site's

information practices, but only 23% of sites even tell children to seek parental permission before providing personal information.⁽¹⁶⁾ Fewer still (7%) say they will notify parents of their information practices, and *only 1% obtain parental permission prior to collecting such information.*⁽¹⁷⁾

The widespread collection of information from young children described in the Report contrasts sharply with the strongly expressed preferences of parents. Indeed, a Louis Harris and Associates survey conducted by Dr. Alan Westin found that 97% of parents whose children use the Internet believe Web sites should not sell or rent personal information relating to children, and 72% object to a Web site's requesting a child's name and address when the child registers at the site, even if such information is used only internally.⁽¹⁸⁾

These new cyberspace information collection practices have real world consequences for family privacy and security. The following two examples of the kinds of children's information collection practices Commission staff found in the survey are instructive:

One child-directed site collected personal information, such as a child's full name, postal address, e-mail address, gender, and age. The site also asked a child extensive personal questions about financial information, such as whether a child previously had received gifts in the form of stocks, cash, savings bonds, mutual funds, or certificates of deposit; who had given a child these gifts; and whether a child had put monetary gifts into mutual funds, stocks or bonds. The site also asked for family financial information including whether a child's parents owned mutual funds. Apparently in exchange for providing this information, a child was entered into a contest. Elsewhere on the Web site, contest winners' full names, age, city, state, and zip code were posted.

Another child-directed site collected personal information to register a child for a chat room. The information included a child's full name, e-mail address, city, state, gender, age, and hobbies. The Web site had a lotto contest that asked for a child's full name and e-mail address. Lotto contest winners' full names were posted on the site. For children who wished to find an electronic pen pal, the site offered a bulletin board service that posted messages, including children's e-mail addresses. While the Web site said it asked *children* to post messages if they were looking for a pen pal, in fact anyone of any age could visit this bulletin board and use the Web site information directly to contact a child.⁽¹⁹⁾

Because of their failure to post a privacy policy or to involve the child's parents, these Web sites illustrate the types of concerns raised by the collection and posting of children's personal information on the Web. The Commission believes that most young children do not possess the level of knowledge or judgment to determine whether to divulge personal information over the Internet.

Moreover, interactive activities available on Web sites, such as chat rooms, message boards, personal home pages, pen pal programs, and free e-mail services, make it easy for children to disclose their personal information to the general public without their parents' awareness or consent. Such public disclosures raise safety concerns. Anecdotal evidence provided at our June 1997 Public Workshop on Consumer Information Privacy indicates that many children surfing the Internet claim to have experienced problems, such as attempted password theft and inappropriate advances by adults in children's chat rooms.⁽²⁰⁾ Further, the FBI and Justice Department's "Innocent Images" investigation into the use of the Internet by pedophiles and other sexual predators reveals that online services and bulletin boards are rapidly becoming the most prevalent sources used by such predators to identify and contact children.⁽²¹⁾ Although there is little evidence directly linking commercial data collection to these problems, the practice of collecting personal identifying information directly from children without parental consent is clearly troubling, since it teaches children to reveal their personal information to strangers and circumvents parental control over their family's information.⁽²²⁾

IV. FTC Law Enforcement Efforts

The Commission has taken several steps to stop deceptive or unfair information practices aimed at children on the Web. On July 15, 1997, the Commission responded in a staff opinion letter to a petition by the Center for Media Education regarding the information practices of KidsCom, a children's Web site. The letter provides guidance to Web site operators as to what information practices involving children are likely to be deceptive or unfair under Section 5 of the Federal Trade Commission Act.⁽²³⁾

Building on the guidance set forth in the staff opinion letter, the Commission recently announced its first Internet privacy case, a settlement reached with GeoCities, one of the most popular sites on the Web.⁽²⁴⁾ The Commission's complaint alleges that GeoCities had made deceptive statements about the use of personal identifying information it collected from children as well as adults. Specifically, the complaint alleges that GeoCities had disclosed identifying information collected via its member registration application to third parties who used it to target members, including thousands of children, for solicitations beyond those that members had agreed to receive. In addition, the complaint charges that GeoCities promoted children's activities that solicited personal identifying information from children in a manner that suggested that GeoCities was collecting the information, when in reality the information was going directly to third parties. In settling this matter, GeoCities has agreed to undertake important privacy protections including posting a clear and prominent Privacy Notice and obtaining parental consent before collecting personal identifying information from children age 12 and under.⁽²⁵⁾

V. Industry Self-Regulation to Protect Children's Privacy

As an integral part of its efforts over the last three years to protect the privacy of children on the Web, the Commission has encouraged industry to address concerns about children's privacy online through self-regulation. The Commission was pleased to see that as early as April 1997, the Children's Advertising Review Unit (CARU) of the Better Business Bureaus, Inc. had developed guidelines addressing the online collection of personal information from children. More recently, the Direct Marketing Association and the Online Privacy Alliance proposed guidelines that urge Web sites to provide notice to parents and obtain parental consent before the collection and use of children's personal information. These efforts are valuable in developing an industry consensus on the appropriate level of protection to accord children's privacy on commercial Internet sites. However, despite these industry efforts, our March survey shows that the vast majority of child-oriented commercial sites have not implemented these protections. The Commission believes that a key objective of any legislation should be to encourage development and implementation of meaningful, effective self-regulatory activities and to provide a basis for their widespread adoption.

VI. Legislation

The GeoCities case demonstrates that Section 5 of the FTC Act provides a basis for Commission action to protect children's online privacy under certain circumstances. It is not clear, however, that Section 5 authorizes the Commission to take action in all circumstances necessary to protect children's online privacy. This is the primary reason why we continue to recommend a legislative response to these issues.

The proposed Children's Online Privacy Act contains many provisions that we believe are necessary and appropriate for effective protection of children online. The Commission supports the enactment of legislation such as S. 2326, because it places parents in control of the online collection and use of personal information from their children. Children are not fully capable of understanding the

consequences of divulging personal information online. Moreover, given the nature of this new medium, parents do not always have the knowledge, or the opportunity, to intervene in their children's choices about giving personal information to Web sites. The proposed legislation would allow parents to know about and control the online collection of information from their children by requiring Web sites to provide *actual notice* and to obtain *prior parental consent*.

This legislation would permit parents to make choices about when and how their children's personal information is collected and used on the Web, and enable parents to monitor their children's interactions and to help protect their children from the risks of inappropriate online interactions. First, this bill sets forth a basic level of privacy protection for children visiting U.S. consumer-oriented commercial Web sites. By establishing these ground rules, the bill would create a level playing field for all such sites. Second, the bill's safe harbor provision would allow industry groups and others to establish sector-specific guidelines, subject to governmental approval, while providing a strong incentive both for ongoing self-regulatory efforts and for the development of new more effective industry efforts. Third, the bill would give the Federal Trade Commission rule-making authority under the Administrative Procedure Act⁽²⁶⁾ to promulgate both procedural mechanisms for approval of industry guidelines and to implement the legislation's substantive provisions governing the online collection of personal information from children.

As a result of our activities over the past three years, the Commission has developed significant expertise regarding children's privacy. We believe the bill, as currently structured, will enable the Commission to work cooperatively with industry and consumer organizations to develop flexible, practical, and effective approaches to protect children's privacy on commercial Web sites. The Commission strongly supports the approach adopted in this legislation.

Conclusion

The enactment of legislation such as S. 2326 would provide uniform privacy protections that should protect children online and provide parents and their children with greater confidence in using the Internet. While the Commission will continue to monitor this area actively and bring law enforcement actions where appropriate, we believe that legislation is needed to provide a basic level of children's online privacy across the board. We believe that under this bill the Commission can play an important role in developing flexible industry-specific standards. In addition, the approach proposed in S. 2326 would encourage the continued growth of industry self-regulatory efforts.

The Commission is committed to the goal of assuring children's online privacy and looks forward to working with the Committee as it considers the Children's Online Privacy Act.

_____ [Footnotes]

[Note: The FTC report referenced in footnotes 2, 12, 14, 16, 17 and 19 was submitted for the record, but not reproduced in this publication. The Executive Summary appears on page 121.]

- (1) My oral testimony and responses to questions you may have reflect my own views and are not necessarily the views of the Commission or any other Commissioner.
- (2) A copy of the Report is attached as Appendix A. The Report is also available on the Commission's Web site at www.ftc.gov/reports/privacy3/index.htm.
- (3) 15 U.S.C. § 45(a). The Commission also has responsibilities under approximately 40 additional statutes, e.g., the Fair Credit Reporting Act, 15 U.S.C. § 1681 *et seq.*, which establishes important privacy protections for consumers' sensitive financial information; the Truth in Lending Act, 15 U.S.C. § 1601 *et seq.*, which mandates disclosures of credit terms; and the Fair Credit Billing Act, 15 U.S.C. §§ 1666 *et seq.*, which provides for the correction of billing

errors on credit accounts. The Commission also enforces over 30 rules governing specific industries and practices, e.g., the Used Car Rule, 16 C.F.R. Part 455, which requires used car dealers to disclose warranty terms via a window sticker; the Franchise Rule, 16 C.F.R. Part 436, which requires the provision of information to prospective franchisees; and the Telemarketing Sales Rule, 16 C.F.R. Part 310, which defines and prohibits deceptive telemarketing practices and other abusive telemarketing practices.

- (4) Certain entities, such as banks, savings and loan associations, and common carriers, as well as the business of insurance are wholly or partially exempt from Commission jurisdiction. See Section 5(a)(2) of the FTC Act, 15 U. S.C. § 45(a)(2), and the McCarran-Ferguson Act, 15 U.S.C. § 1012(b).
- (5) Generally, these deception cases addressed false demonstrations and misrepresentations about performance of toys in advertising directed to children. See *Azrak-Hamway International, Inc.*, C-3653 (May 2, 1996) (consent); *United States v. Hasbro, Inc.*, No. 96-451P (D.R.I. Aug. 6, 1996)(stipulated permanent injunction and \$280,000 civil penalty); *Lewis Goloob Toys, Inc.*, 14 F.T.C. 187 (1991)(consent).
- (6) Most recently, the Commission's actions regarding the marketing of pay-per-call 900 services to children recognized children as a vulnerable group in the marketplace. These cases challenged the marketing of 900 number services to children as an unfair practice. See *Audio Communications, Inc.*, 114 F.T.C. 414 (1991)(consent order); *Teletime, Inc.*, 114 F.T.C. 399 (1991) (consent order); *Phone Programs, Inc.*, 115 F.T.C. 977 (1992)(consent order); *Fone Telecommunications, Inc.*, Docket No. C-3432 (June 14, 1993) (consent order).
- (7) Children use the Web for a wide variety of activities, including homework, informal learning, browsing, playing games, corresponding with electronic pen pals by e-mail, placing messages on electronic bulletin boards, and participating in chat rooms. See *Interactive Consumers Research Report*, Vol. 4, No. 5 at 1, 4, May 1997 (discussing results of FIND/SVP's 1997 American Internet User Survey).
- (8) cyberdialogue/findsvp, "1998 American Internet User Survey." These figures include children online from any location including home, school, libraries, homes of friends, and relatives. At mid-year, 8.7 million children under age 18 reportedly went online from home, up from 5.7 million a year ago, and 9.3 million from school, up from 4.1 million in 1997.
- (9) *Id.*
- (10) Children are estimated to spend billions of dollars a year, and to influence the expenditure of billions more. For example, one source has estimated that, in 1997, children aged 4 through 12 spent \$24.4 billion themselves; and children aged 2 through 14 may have directly influenced spending by their parents in an amount as much as \$188 billion. James U. McNeal, *Tapping the Three Kids' Markets*, American Demographics, Apr. 1998, at 38, 40.
- (11) According to one source, most children's Web sites are targeting children ages 8 to 11. Teens tend to visit the same sites that adults visit. Robin Raskin, *What do Kids Want?*, Family PC Magazine, May 1998, at 17.
- (12) See Report, Appendix A, at 3, describing the methodology used to select the sites in the children's sample.
- (13) Typically the sites that collect personal identifying information also collect several other types of information, enabling them to form a detailed profile of a child. Of the sites surveyed that collect a child's name and/or e-mail address, 21 % collect 5 or more additional types of personal information; 48% collect three or more additional types of information; and 77% collect one or more additional types of information.
- (14) Report at 32.
- (15) The March survey did not identify the specific activities through which Web sites collected information, however, a previous Commission review of children's sites did identify the wide range of information collection methods cited above. See FTC Staff Report: *Public Workshop on Consumer Privacy on the Global Information Infrastructure*, December 1996, Appendix E, available at <http://www/ftc.gov/reports/privacy/privacy1.htm>. In addition, the March survey identified Web sites' disclosures about their information practices, but did not determine their actual practices.
- (16) Report at 37.
- (17) *Id.*
- (18) *Commerce, Communication, and Privacy Online, 4 National Survey of Computer Users*, by Louis Harris & Associates and Dr. Alan F. Westin (1997) at 74.
- (19) Report at 39-40.
- (20) See Transcript of FTC Public Workshop on Consumer Information Privacy, June 12, 1997, at 192-93.
- (21) *Id.* at 192-93. Since its beginnings in 1995, the FBI's "Innocent Images" program has generated 421 search warrants, 175 indictments, 175 arrests and 201 convictions (as of June 2, 1998).

- (22) Complaints filed with the National Center for Missing & Exploited Children's Cyber Tipline (1-800-843-5678/ www.missingkids.com/cybertip) include reports of the use of commercial Web sites' free e-mail services, chat rooms, message boards, and pen pal programs by inappropriate adults seeking to communicate with children.
- (23) In brief, the letter states that it is a *deceptive practice* to expressly or impliedly misrepresent the purpose for which personal identifying information is being collected from children (e.g., to represent that the information is collected for a game or contest when it is actually collected for the purpose of compiling a mailing list). The letter also states that it is likely to be an unfair practice to collect personal identifying information from children and sell or otherwise disclose that information to third parties without providing parents with adequate notice and a prior opportunity to control the collection and use of the information.
- (24) *GeoCities*, FTC File No. 982 3015, August 13, 1998 (provisional acceptance of the consent agreement).
- (25) The settlement agreement was published at 63 Fed Reg. 44624 (August 20, 1998). The 60 day comment period closes on October 19, 1998. After reviewing all comments filed, the Commission will decide whether to make the consent agreement final.
- (26) 5 U.S.C. § 553.

Executive Summary from Privacy Online: A Report to Congress from the Federal Trade Commission

EXECUTIVE SUMMARY

- A medical clinic's online doctor-referral service invites consumers to submit their name, postal address, e-mail address, insurance company, any comments concerning their medical problems, and to indicate whether they wish to receive information on any of a number of topics, including urinary incontinence, hypertension, cholesterol prostate cancer, and diabetes. The online application for the clinic's health education membership program asks consumers to submit their name, address, telephone number, date of birth marital status, gender, insurance company, and the date and location of their last hospitalization. The clinic's Web site says nothing about how the information consumers provide will be used or whether it will be made available to third parties.
- A child-directed site collects personal information, such as a child's full name, postal address, e-mail address, gender, and age. The site also asks a child whether he or she has received gifts in the form of stocks, cash, savings bonds, mutual funds, or certificates of deposit; who has given these gifts; whether monetary gifts were invested in mutual funds, stocks, or bonds; and whether the child's parents own mutual funds. Elsewhere on the site, contest winners' full name, age, city, state and zip code are posted. The Web site does not tell children to ask their parents for permission before providing personal information and does not appear to take any steps to involve parents. Further, the site says nothing about whether the information is disclosed to third parties.

The World Wide Web is an exciting new marketplace for consumers. It offers easy access to a broad array of goods, services, and information, but also serves as a source of vast amounts of personal information about consumers, including children. While the online consumer market is growing exponentially, there are also indications that consumers are wary of participating in it because of concerns about how their personal information is used. As the above examples show, these concerns are real for both adults and children.

The Commission has been involved in addressing online privacy issues for almost as long as there has been an online marketplace and has held a series of workshops and hearings on such issues. Throughout, the Commission's goal has been to encourage and facilitate effective self-regulation as the preferred approach to protecting consumer privacy online. These efforts have been based on the

belief that greater protection of personal privacy on the Web will not only protect consumers, but also increase consumer confidence and ultimately their participation in the online marketplace. In this report, the Commission summarizes widely-accepted principles regarding information collection, use, and dissemination; describes the current state of information collection and privacy protection online; and assesses the extent of industry's self-regulatory response.

Government studies in the United States and abroad have recognized certain core principles of fair information practice. These principles are widely accepted as essential to ensuring that the collection, use, and dissemination of personal information are conducted fairly in a manner consistent with consumer privacy interests. These core principles require that consumers be given notice of an entity's information practices; that consumers be given choice with respect to the use and dissemination of information collected from or about them; that consumers be given access to information about them collected and stored by an entity; and that the data collector take appropriate steps to ensure the security and integrity of any information collected. Moreover, it is widely recognized that fair information practice codes or guidelines should contain enforcement mechanisms to ensure compliance with these core principles. With respect to the collection of information from children, a wide variety of public policies recognize the important supervisory role of parents in commercial transactions involving their children. Parental control is also the touchstone for application of fair information practice policies to the collection of information from children.

The Commission solicited industry association fair information practice guidelines to assess their conformity with these core principles. This assessment shows that industry association guidelines generally encourage members to provide notice of their information practices and some choice with respect thereto, but fail to provide for access and security or for enforcement mechanisms.

The Commission also examines the practices of commercial sites on the World Wide Web. The Commission's survey of over 1,400 Web sites reveals that industry's efforts to encourage voluntary adoption of the most basic fair information practice principle – notice – have fallen far short of what is needed to protect consumers. The Commission's survey shows that the vast majority of Web sites – upward of 85% – collect personal information from consumers. Few of the sites – only 14% in the Commission's random sample of commercial Web sites – provide any notice with respect to their information practices, and fewer still – approximately 2% – provide notice by means of a comprehensive privacy policy. The results with respect to the collection of information from children are also troubling. Eighty-nine percent of children's sites surveyed collect personal information from children. While 54% of children's sites provide some form of disclosure of their information practices, few sites take any steps to provide for meaningful parental involvement in the process. Only 23% of sites even tell children to seek parental permission before providing personal information, fewer still (7%) say they will notify parents of their information practices, and less than 10% provide for parental control over the collection and/or use of information from children. The Commission's examination of industry guidelines and actual online practices reveal that effective industry self-regulation with respect to the online collection, use, and dissemination of personal information has not yet taken hold.

In light of the Commission's findings and significant consumer concerns regarding privacy online, it is evident that substantially greater incentives are needed to spur self-regulation and ensure widespread implementation of basic privacy principles. The Commission is currently considering such incentives and possible courses of action to adequately protect the privacy of online consumers generally. The Commission will make its recommendations on this subject this summer.

In the specific area of children's online privacy, however, the Commission now recommends that Congress develop legislation placing parents in control of the online collection and use of personal

information from their children. Such legislation would require Web sites that collect personal identifying information from children to provide actual notice to parents and obtain parental consent. The timing of such notice and consent would vary depending on the age of the child, and the nature and uses of the information collected. Such legislation would protect children and ensure that parents have knowledge of, and control over, the collection of information from their children.

The development of the online marketplace is at a critical juncture. If growing consumer concerns about online privacy are not addressed, electronic commerce will not reach its full potential. To date, industry has had only limited success in implementing fair information practices and adopting self-regulatory regimes with respect to the online collection, use, and dissemination of personal information. Accordingly, the Commission now recommends legislation to protect children online and this summer will recommend an appropriate response to protect the privacy of all online consumers.

Also Submitted for the Record

Also submitted for the record, but not reproduced in this publication is the following item:

- Privacy Online: A Report to Congress. Federal Trade Commission, June 1998. The executive summary is provided above.

4. Supplemental Material from Deirdre Mulligan

[Ms. Mulligan's testimony begins on page 29 of this publication.]

Written Testimony of Deirdre Mulligan

Testimony of Deirdre Mulligan, Staff Counsel

Center for Democracy and Technology

Before the

United States National Commission on Libraries and Information Science

November 10, 1998

My name is Deirdre Mulligan. I am Staff Counsel at the Center for Democracy and Technology. The Center is pleased to participate in this hearing at the request of the Commission. We welcome the opportunity to discuss the promise of the Internet for children around the globe.

The Center for Democracy and Technology (CDT) is an independent, non-profit public interest policy organization in Washington, DC. The Center's mission is to develop and implement public policies to protect and advance individual liberty and democratic values in the new digital media. The Center achieves its goals through policy development, public education, and coalition building.

From its inception in January 1995, the Center has played a leading role in policy debates on two issues of interest to the Commission this morning:

- how to protect children from inappropriate material on the Internet while respecting constitutional values and fostering the growth and health of the Internet; and,
- how to protect the privacy of adults and children in the online environment.

I am pleased to have this opportunity to share with the Commission CDT's views and insights on these two important issues.

I. Realizing the Promise While Avoiding the Peril

There are over 140 million people online today, and children are an increasingly large segment of the Internet user population. For children on the Internet, a computer terminal is a window into an exciting world of knowledge, people, places and ideas. The Internet provides children with a tremendous opportunity to exercise their creativity and communicate with others, allowing them to publish their ideas and speak with voices that truly reach around the globe. The Internet offers children possibilities for personal growth that are limited only by their own imaginations.

The following are some examples of innovative online projects that demonstrate how the Internet can enrich the lives of children:¹

- *Building Bridges for Place-Bound Students* is a virtual classroom initiative that allows hospitalized children to collaborate with classroom-based students to learn about global climate change.
- *CyberIsle* is a Web-based virtual community which seeks to provide a compelling and safe environment for teenagers to explore issues around their sexuality, alcohol, cigarette, and drug use.
- The *NICE Project* gives K-12 students the opportunity to construct, cultivate, and preserve a virtual garden.
- The *Pueblo Project* matches senior citizens with school children in a one-to-one online mentoring program that encourages community development, basic reading and writing skills, and social responsibility.

We have all recognized that the Internet has enormous potential to foster the growth of children by encouraging them to communicate and exchange ideas. With this potential for growth, however, comes a potential for risk and a need for responsibility. The interactivity provided by the Internet, while providing opportunity for learning and self-expression, also raises some troubling issues. Children can interact with others online without parental supervision. The ease with which children can reveal information about themselves to others -- through the click of their mouse², or through participation in games, chat rooms, pen-pal programs, and other online activities -- can be alarming. Indeed, while the Internet offers children unprecedented and important new educational and recreational opportunities, the medium may also offer access to inappropriate material, exposure to unknown individuals, or exposure to unfair marketing or information collection practices.

The challenge for parents, teachers, and librarians is to realize the potential of the Internet for their children, while avoiding the possible perils. Ensuring a safe and enriching online environment requires us to strike a delicate balance between protecting children, preserving First Amendment freedoms, and respecting the privacy rights of all who seek to read, communicate, and associate with others on the Internet. Libraries, as institutions dedicated to promoting access to information, can play a pivotal role in preserving the fundamental First Amendment freedoms and privacy interests that allow people to exercise their right to read and access information. Libraries also serve as an important gateway to knowledge for children, and as such their efforts to address the complex issues presented by the Internet are of critical importance.

II. Protecting Children from Inappropriate Material

Protecting children from inappropriate material online has been the focus of intense policy debate, legislative activity, and litigation. Our government has made several well-intentioned, but unfortunately ineffective, attempts to help parents and community leaders protect children on the Internet. In its efforts to regulate the Internet, Congress has tried to impose a national standard for appropriate speech online, failing to acknowledge the decentralized, global nature of this communications medium.

A. The CDA decision

CDT views this issue through the experience of the legislative process that resulted in Congress' first attempt to regulate content on the Internet -- the unconstitutional Communications Decency Act (CDA). As the coordinator of the Citizens Internet Empowerment Coalition (CIEC), CDT joined the American Library Association and others in rallying the civil liberties groups, the library and publishing communities, Internet service providers, and individual users of the Internet to challenge the CDA. In federal district court in Philadelphia, the coalition undertook an educational effort to demonstrate for the judges the unique nature of the Internet -- something Congress had failed to consider when it enacted the CDA. We gave the court a tutorial on the Internet, proving that overly broad restrictions on speech in cyberspace were not only unconstitutional, but also ineffective at protecting children. The Supreme Court decision in Reno v. ACLU³ (hereinafter the "CDA decision") striking down the CDA on First Amendment grounds was largely based on the factual findings of the lower court detailing the nature and characteristics of the Internet.

In the CDA decision, the Supreme Court declared unconstitutional a sweeping attempt by Congress to regulate a broad and undefined category of speech, "indecent," across a wide range of Internet interactions including email, chat groups, and the World Wide Web. The Court recognized that it would be unconstitutional to impose a uniform national standard on cyberspace, because "whether something rises to the level of obscene is a legal conclusion that, by definition, may vary from community to community." As a global, decentralized medium, the Internet emphasizes that we can not define "community" on a national level. Material that is considered appropriate in New York might not be acceptable in Kansas and, therefore, decisions regarding community standards for speech must be made on a local level, not mandated by the federal government. The Court also acknowledged that as "the most participatory marketplace of mass speech" on a global level, "the Internet deserves the broadest possible protection from government-imposed, content-based regulation". Under the First Amendment, the Court found that "[t]he Government may only regulate indecent speech for a compelling reason, and in the least restrictive manner". Creating an overly broad national standard on speech and taking power out of the hands of local community leaders does not constitute the least -restrictive means of protecting children.

Despite this ruling by the Supreme Court, Congress passed a similar attempt to regulate speech on the Internet this fall. The recently passed Child Online Protection Act ("CDA II") is currently the focus of one legal challenge, and I expect that CDT and others will file additional challenges in the coming months.

B. How are libraries protecting children from inappropriate content online?

While the Congress and courts around the country have been debating whether censorship laws can protect children online, companies and non-profit organizations have responded with wide-ranging efforts to create child-friendly content collections, teach children about appropriate online behavior, and develop voluntary, user-controlled, technology tools that offer parents the ability to protect their

own children from inappropriate material. Unlike legislative approaches, these bottom-tip solutions are voluntary. They protect children and assist parents and caretakers regardless of whether the material to be avoided is on a U.S. or foreign Web site. They respond to local and family concerns and they avoid government decisions about content. We would like to describe some of these initiatives to emphasize their diversity, their user-controlled nature, and their responsiveness to parental concerns. As educational resources and information-providers, libraries play a special role in implementing these user-empowerment tools and helping children safely access information online.

1. Education, Green Spaces, and Other Initiatives

Many public-private initiatives are underway to help parents and children learn to navigate the Web safely, create kid-friendly content zones, and to work with law enforcement to ensure children's safety. They include:

- ▶ sites created by libraries and schools, to lists of useful sites compiled by libraries and educators, such as "Kids Connect Favorite Web Sites" selected by school librarians for K-12 students;
- ▶ tools that guide kids while they explore the Internet, such as AOL NetFind Kids Only, a search engine that links only to sites that are safe for kids; and,
- ▶ hotlines that connect concerned parents and adults to law enforcement resources, such as the National Center for Missing and Exploited Children's Cyber tipline.⁶

In addition to ongoing efforts to develop resources, educational tools and child-friendly materials, the Internet community has sponsored several public events to highlight the issue of children's safety online, including access to inappropriate content, and inform the public of the resources and tools to address it. The Internet Online Summit: Focus On Children⁷ was held on December 1st - 3rd 1997. More than 650 participants representing over 300 organizations came together to assure that steps were taken to make the online experience safe, educational and entertaining for children. America Links Up- A Kids Online Teach-In,⁸ a broad-based public awareness campaign, kicked-off in November to ensure that every child in America has a safe, educational and rewarding experience online. It sought to build on and expand the activities of the December 1997 Summit.⁹

2. Acceptable use policies

Libraries, schools, and other educational and cultural community centers are already taking a broad range of approaches to provide children with enriching and safe online experiences. A central component of these efforts is protecting children from inappropriate information. The American Library Association has developed several resources that assist parents and children in ensuring a positive Internet experience.

They include:

- ▶ The Librarian's Guide to Cyberspace for Parents and Kids -- an online guide with safety tips, links to good sites and other information;
- ▶ Great Sites -- a collection of links to hundreds of Web sites for children;
- ▶ ICONnect -- a joint technology initiative that offers online courses on Internet skills, curriculum development assistance and grants, a question and answer service for children and online classes for families on Internet basics and safety.

In addition, libraries around the country have already implemented or are exploring the adoption of acceptable-use policies. According to the recent *National Survey of Public Libraries Outlet and Internet Connectivity*, 8 out of 10 public libraries have acceptable use policies, and another 1 out of 10 are developing such policies. This approach has also been adopted by other institutions. For example, the United States Catholic Conference (USCC) has developed an "Ethical Internet Use" policy under which each school or diocese adopts a policy detailing the rights and responsibilities of students, parents and teachers in Internet use. The USCC has found these policies to be more effective and to respond better to local needs, without requiring the burdensome expense of filtering or blocking products. The policies are buttressed by contracts signed by students, parents and teachers.

3. Filtering Tools: the Promise and the Peril of Filtering Technologies

In the CDA decision, the Supreme Court identified a broad range of user-empowerment tools, including several filtering software products that provided a less restrictive means of protecting children from inappropriate material than broad legislation. The Court also noted, however, the limitations of filtering products, both in technology and implementation. Filtering technology, when used on a voluntary basis, can empower individuals and protect children consistent with a family's values and standards. When filtering is mandated by the government, however, this prerogative is taken away and the First Amendment is abridged.

In this Congress, two bills were introduced that would have conditioned e-rate funding for schools and libraries on the use of filtering technology -- the Safe Schools Internet Act (H.R. 3177), sponsored by Representative Franks (R-NJ), and the Child Protection Act (adopted by the Labor, Health and Human Services, and Education Appropriations Subcommittee), sponsored by Representative Istook (R-OK). These proposed laws were aimed at ensuring that libraries and schools would take steps to protect children from inappropriate information when parental supervision was unavailable. If enacted, however, these government mandates would have usurped local authority to set community standards and would have placed an unconstitutional limitation on speech.

- a. Requirements to adopt filtering technology effectively usurp local communities' ability to set standards that reflect their values.

The proposals to require mandatory filtering at libraries appear on their face to protect community values, by allowing the local community to select the filter they want. However, due to several factors the impact of such proposals is unlikely to meet this intent:

Currently available and reasonably priced filtering technologies do not mirror the diversity of local community norms found across the country.

The budgetary constraints under which libraries and schools operate are likely to limit their ability to custom design filters that meet their community standards. This financial burden might force disadvantaged communities, in particular, to compromise their values.

The ability of schools and libraries to assess whether commercially available filters meet their needs will be stymied by companies that currently do not disclose the standards under which they filter or the list of filtered sites.

Some schools and libraries may lack the technical expertise and resources to choose and deploy filters.

Filtering products have been found to block sites “that contain information similar to what would be found on library shelves.”

b. Mandatory filtering in public libraries would restrict constitutionally protected material in ways that will infringe upon First Amendment rights.

Currently adults and children are able to access information that falls into the 'harmful to minors' category in the same way they access other information online. In libraries with only one terminal, mandatory filtering software will require adults and older minors to affirmatively request access to constitutionally protected information.¹² Because of its chilling effect on speech, the Supreme Court has stated that the government may not require adults to affirmatively request controversial but protected material in order to receive it.”¹³

Several studies of commercially available filters suggest that they curtail access to information on topics ranging from gay and lesbian issues, women's health, conservative politics, and many others.¹⁴ These filtering companies deem sites inappropriate based on the subjective rating criteria of their employees, and librarians often have difficulty determining which sites have been blocked because most companies will not make this information public. If libraries are faced with a limited set of options, this approach may force them to censor more than they would choose and in effect discriminate against specific viewpoints.

Furthermore, filtering products have been found to block access to even non-controversial speech. According to a recent survey of filtering products,¹⁵ over 35% of filtered searches blocked some information needed to answer a librarian's question. In response to reference questions about sexuality, only 64% could be answered correctly using filtering programs, whereas 80-90% of other reference questions could be answered correctly. Filtering products that block materials that could otherwise be found on library shelves not only raise constitutional concerns, but also prevent libraries from fulfilling their roles as information-providers and educational resources.

c. Case Study: Mandatory Filtering in Loudoun County

Mandatory filtering forces libraries to replace the existing diversity of local community norms with a narrower set of views offered by private companies that provide off-the-shelf products. In fact, the Board of Trustees of the Loudoun County Public Library found in tests of the filtering software it chose to employ blocked dozens of non-pornographic sites, including the home page of the Society of Friends, the Web site for the Yale University biology department graduate program, the Web site for the American Association of University Women, and the AIDS quilt Web site. The Loudoun County decision to employ filters at all library terminals was the subject of a constitutional challenge by parents, citizens, and other public library users in Loudoun County. A federal court ruled that the policy represented a prior restraint on valuable, constitutionally protected information, failed to meet the goal of protecting children, and ignored readily available, less restrictive alternatives. If libraries were required to install filters in order to maintain funding, or because otherwise required, they may find

themselves in conflict with their communities' values. This, in turn, may subject them to litigation.

Government-mandated filtering replaces this thoughtful-decision making and discussion by community leaders with standards set by private companies -- many of which are shut off from public scrutiny due to lack of disclosures about the process or guidelines for blocking sites. Librarians, as community leaders, are in a better position to determine local values, as well as the costs and benefits of various methods of protecting children as applied to their particular community's needs. The prospect of libraries being forced to delegate their traditional responsibilities for providing access to information and addressing the special needs of young children to unchecked private entities raises troubling First Amendment issues.

II. Protecting Children's Privacy Online

With the growth of the Internet and electronic commerce, people are becoming increasingly concerned about how their personal information is being used online. In a 1998 survey on privacy, CDT found that the majority of respondents would not give out personal information online because of privacy concerns.¹⁶ According to *Time*, 41% of Internet users surveyed said that they would leave a web site rather than reveal any personal information about themselves. These privacy concerns multiply when children, who are particularly vulnerable to unfair business practices, are revealing information online. According to the *FamilyPC*, 65% of parents surveyed say their children have been solicited to buy goods or services online, and 55% of parents are concerned or very concerned about marketing directed toward children.

A. The Children's Online Privacy Protection Act

In a major step forward for children's privacy and safety online, the Children's Online Privacy Protection Act was enacted as part of the final omnibus budget bill. It represents an effort to protect children's privacy and safety in a way that preserves First Amendment and privacy values and reflects the workings of the Internet. The bill is focused on commercial Web sites directed at children 12 and under and Web sites that collect information about age. It generally requires parental consent prior to the collection of personal information from children 12 and under. Importantly, it allows children to ask for and receive information via email without parental involvement, provided that the Web site uses this information only to respond to the child's specific request.

The Federal Trade Commission will shortly begin public proceedings required under the bill to craft guidelines for its implementation. Critical issues will be explored and decisions made that will determine how children in library and other non-home settings will be effected by the law. For example, the law requires Web sites targeted at children to obtain "verifiable parental comment" prior to collecting information from children. What does this mean? What procedures will meet this requirement? How will libraries, schools and other public institutions address this issue? The law has set out rules that, if implemented appropriately, will both protect privacy and ensure children's timely access to information. However, the active participation of librarians, educators, and parents is needed to ensure a sensible implementation plan for these non-home environments.

B. Federal Trade Commission Reports on Privacy

The Federal Trade Commission's "Privacy Online: A Report to Congress," delivered to Congress in June 1998, detailed some troubling practices by commercial Web sites targeted at children. The survey found that such sites were soliciting detailed information from children without notice or

consent. Despite the fact that 89% of children's sites were collecting personal information, only half had an information practice statement of any kind, and fewer than a quarter had a privacy policy notice. Only 7% of sites collecting information from kids notified parents, and only 23% even suggested that children speak to their parents before giving information. The FTC's survey documented that business practices had failed to respond to parents' concerns with their children's privacy and safety online.

At FTC hearings the previous June, law enforcement officials discussed the risks to children posed by chat rooms, bulletin boards, and other forums that allow those on the Internet, including children, to post information about themselves. Officials stated that a child's ability to disclose personal information – such as their email address, name, home address, school, and phone number -- to a wide array of strangers posed a risk to the child's safety.¹⁷

Privacy, consumer, and child advocacy organizations focused on business practices that undermined adult's and children's privacy. Advocates emphasized that the transactional information generated during a child's visits to Web sites and participation in other Internet activities offered an unprecedented opportunity to monitor and analyze a child's activities and behavior. Through games, contests, and other lures, Web sites targeted at children are requesting -- or requiring -- that children provide personal information such as name, address, email, information on likes and dislikes, and information on their families and friends, as the cost of participating in online activities. Through both passive and active information collection online, content providers were creating detailed individual profiles on children which could be used and disclosed for a variety of purposes.

Advocates, law enforcement officials and industry all agreed that protecting children's privacy and safety online was critical. Participants largely agreed that the ongoing collection of personally identifiable information from children undermined their privacy and based on a survey presented at the workshop was likely to scare parents into keeping their children off the Internet.¹⁸ The message from the public and advocates can be summed up in the notion that:

Just as we ask our children not to disclose information about themselves and, as a society, teach children to safeguard information about themselves and their families in the real world, we must teach our children not to disclose their personal information to strangers in Cyberspace. And we expect the business community to assist us in teaching children that their privacy and personal information are valuable and not for sale.

III. Conclusion: How Can NCLIS Help Libraries Protect Children Online?

While libraries and communities across the country are grappling with the task of helping children reap the benefits of the Internet while minimizing risks, the NCLIS can provide a forum for sustained, substantive dialogue on the issues facing children in the online environment. The NCLIS could facilitate this discussion by sponsoring a study on methods of protecting children from inappropriate online content that are currently employed by libraries. How are libraries that choose filtering technologies implementing them? What are the experiences of libraries that employ acceptable use policies, privacy screens, and filters? By investigating these issues, the NCLIS can act as a clearinghouse for sharing information on best practices and innovative techniques for assisting children. Increased awareness, generated by local communities, advocates, and the legislative activities described above, has encouraged parents, teachers, librarians and communities around the country to become more involved in children's use of the Net. Support from NCLIS would further these important efforts.

In addition, NCLIS could provide a useful forum for exploring implementation options and/or monitoring implementation of the Children's Online Privacy Protection Act. I urge NCLIS to spread the word about the Children's Online Privacy Protection Act to librarians around the country. The input of librarians, particularly children's librarians, will be critical to the process of establishing appropriate guidelines for implementing this law.

In seeking to protect children we must preserve the role of libraries as the gateways to information and knowledge, and protectors of patron privacy. Thoughtful decisions based on understanding how the Internet works and respect for our constitutional values will ultimately make the Internet a safe place for children and ensure our most cherished First Amendment and privacy freedoms.

____ [Footnotes]

1. These examples are excerpts from the Center for Media Education's *interActions* research initiative (<http://www.cme.org>).
2. As a child "surfs" from one Web site to another, their movements leave behind a trail – much like the footsteps one leaves in the beach sand – this information can be used by Web site operators to improve the content of their site or to target advertisements based on a child's activities.
3. 117 S. Ct. 2329 (1997).
4. <http://www.ala.org/ICONN/kcfavorites.html>
5. <http://www.aol.com/netfind/kids/home.html>
6. <http://www.missingkids.com/cybertip/>
7. <http://www.kidsonline.org>
8. <http://www.americalinksup.org>
9. Materials about this initiative are available here today and at <http://www.americalinksup.org>.
10. Please see Karen Schneider's *Internet Filter Assessment Project* at <http://www.bluehighways.com/tifip>.
11. The argument has been made that blocking materials that would otherwise be available in libraries is analogous to removing books from library shelves, which was found unconstitutional in *Pico*, 457 U.S. 853 (1982). Please refer to *Purchase of Blocking Software is Unconstitutional* by Jonathan Wallace.
12. In a recent survey, 42.7% of libraries were found to have only one computer terminal, (*1998 National Survey of Public Library Outlet Internet Connectivity*)
13. *Denver*, 116 S. Ct. 2374 (1996)
14. See, *Access Denied: The Impact of Internet Filtering Software on the Lesbian and Gay Community (CLAAD): Fahrenheit 451.2: Is Cyberspace Burning (ACLU)*; and, *Faulty Filters: How Content Filters Block Access to Kid-Friendly Information on the Internet (EPIC)*.
15. *Internet Filter Assessment Project* (<http://www.bluehighways.com/tifap>).
16. <http://www.cdt.org/privacy/survey/findings>
17. See F.T.C. Web site, Comments & Transcripts of the Online Privacy Workshop (<http://www.ftc.gov>)
18. *Id.*

Center for Democracy and Technology: Working for Civil Liberties on the Internet



CENTER FOR DEMOCRACY AND TECHNOLOGY

Working for Civil Liberties on the Internet

Prospectus 1996-97

Overview

The Center for Democracy and Technology is a leading voice in the critical public policy debates affecting the future of the Internet and other new communications media. Based in Washington DC, CDT's mission is to develop and work for policies that advance civil liberties and democratic values for global communications networks.

CDT's public education and advocacy work is guided by a vision of the Internet as an open and decentralized communications medium in which anyone, anywhere around the world, can participate free of gatekeepers and government censors.

Today each Internet user has at his or her fingertips the equivalent of an electronic Gutenberg with global reach. CDT is developing policies, practices and tools that support the free flow of information, privacy and the democratic potential of the Internet.

In 1996 our major accomplishments included:

- **Free Expression:** CDT organized the Citizens Internet Empowerment Coalition--consisting of 47 library, industry, and public interest organizations -- to mount a successful constitutional legal challenge to the Communications Decency Act. CIEC "wired the courtroom" in Philadelphia to educate the court about the unique nature of the Internet.
- **Online Privacy:** CDT's Privacy Demonstration Web Page educated thousands of users about how personal information is gathered on the Web to make the case for privacy safeguards on the Internet. CDT worked to persuade policy makers, industry and public interest organizations to commit to develop standards and technical tools to facilitate fair information practices on the Internet.
- **Encryption:** CDT initiated a high visibility public education campaign on the need for and right of citizens to have strong encryption to protect their privacy on the Internet. The CDT-organized Security and Freedom Through Encryption (SAFE) Forum at Stanford University enabled over 500 experts, industry executives and privacy advocates to meet with key members of Congress, impressing on legislators the need for effective "locks and keys" to make cyberspace secure for users.

- **Electronic Surveillance:** CDT's critique of FBI surveillance proposals led the FBI to scale back its wiretapping design requirements for advanced communications infrastructures as required under the Digital Telephony statute.
- **Online Democracy:** CDT developed new ways to give Internet users greater access to government and to participate in the democratic process. CDT produced the first live cybercast of a congressional hearing which featured realtime interaction between committee members and Internet users. CDT's interactive online petition enabled over 56,000 "netizens" to join the Citizens Internet Empowerment Coalition lawsuit against the Communications Decency Act. CDT also worked to pass the Electronic Freedom of Information Act Amendments of 1996, guaranteeing citizens' access to computerized government records.

In 1997 CDT is working on an ambitious agenda, which includes:

- **Free Expression:** The Communications Decency Act, having been declared unconstitutional by a three-judge panel in Philadelphia, is now on appeal before the US Supreme Court. The CDT-organized Citizens Internet Empowerment Coalition is working to persuade the Court to uphold the lower court decision.
- **Educating policy makers and the public:** Regardless of the outcome of the Supreme Court appeal, we expect the Internet censorship issue to be back before the US Congress in 1997. Thus, the educational and analytical activity of the Interactive Working Group will become critical again. The Interactive Working Group will bring interested parties together to evaluate legislative proposals and consider policy alternatives. CDT, working with the American Library Association, will also expand its efforts to persuade policymakers that user controls are a more effective way to protect children from objectionable content than government restrictions on free speech.
- **Online Privacy:** CDT and members of the Internet Privacy Working Group are developing a Platform for Privacy Preferences (P3) with the World Wide Web Consortium at MIT. Enabling web browsers to recognize a common fair information practices vocabulary, P3 will facilitate the ability of website operators and Internet users to negotiate over how personal information will be collected and used on the Internet.
- **Encryption:** In response to government efforts to guarantee law enforcement access to encrypted communications, CDT, in consultation with members of the Digital Privacy and Security Working Group, is conducting a study of the technical feasibility and legal and privacy issues posed by alternative key escrow and key recovery systems. CDT will conduct more public forums and expand its online efforts to educate the public about the need to reform encryption policy to promote privacy and commerce on the Global Information Infrastructure.
- **Electronic Surveillance:** Communications technologies are always outpacing legal standards for protecting privacy and security. Periodically, it is necessary to reexamine the legal framework for privacy protection. In the belief that it is time for such a review, and in response to Congressional requests for CDT's assistance, the DPSWG will be undertaking in 1997 a major study of communications privacy in the digital age.
- **Online Democracy:** CDT is expanding its efforts to put Congress on the Internet. CDT will "cybercast" more congressional hearings and events dealing with Internet policy issues this year as part of a project to explore ways to enhance citizen participation in the democratic

process via the Internet. As the coordinator of the Congressional Internet Caucus Advisory Committee, CDT is working with the Caucus and advisory committee members to educate the Congress about the Internet and expand citizen access to Congress via the Internet.

- **Internet Access:** CDT is looking at regulatory issues that affect the cost and availability of access to the Internet. Working with the Media Access Project, the Benton Foundation, and The Voters Telecommunications Watch, CDT will conduct a series of educational forums to explore alternative industry cost, design, and bandwidth proposals. Our goal is to identify policies that ensure widely available, affordable digital access to the Internet.
- **Global Outreach:** In recognition of the need for global policies and practices that keep the Internet open, CDT is expanding its free expression and privacy work abroad. CDT is continuing to identify and establish working alliances with non-government organizations, human rights groups and commercial entities who share CDT's vision of the Internet.

The Center for Democracy and Technology is widely recognized for its unique approach to Internet issues. CDT seeks practical solutions to problems and dedicates itself to convening and building consensus among interested parties, across the political, ideological, and communications industry spectrum. We manage working groups in each issue area that bring together representatives of the private and public sector, including industry and public interest groups. These working groups, backed by CDT staff expertise in relevant law and technology, meet regularly, share information and conduct public education and outreach campaigns, with the shared goal of supporting the free flow of information and commerce on the Internet and other interactive communications media.

CDT is a non-profit 501(c)(3) public interest organization. CDT is supported by foundations and a broad cross section of over forty computer and communications firms and associations. Funders support and participate in specific working group activities.

CDT Working Groups

- Interactive Working Group -- Free Expression
- Digital Privacy and Security Working Group -- Communications Privacy
- Internet Privacy Working Group -- Internet User Privacy

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U.S. National Commission on Libraries and Information Science

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5. Supplemental Material from Bruce Watson

[Mr. Watson's testimony begins on page 35 of this publication.]

Transmittal Letter from Enough Is Enough

December 9, 1998

Ms. Jeanne Hurley Simon, Chairperson,
National Commission on Libraries and Information Science
1110 Vermont Avenue, N.W., Suite 820
Washington, D.C. 20005-3552

Dear Ms. Simon,

Enclosed is an updated copy of the written comments I provided at the hearing on November 10, 1998.

The only addition is a clarification of our belief, which I expressed at the hearing, that (a) the primary issue is safeguarding children, and (b) parents have the ultimate, although not the sole, responsibility for their children. Consistent with these principles, the last part of the second last paragraph now reads:

“Accordingly, we believe that libraries should, at a minimum, filter Internet access for minors. If a parent wishes their child to have unfiltered access, that is clearly their

responsibility; however, the parent should be present during any unfiltered access so that the library does not have to act as a babysitter.”

We would appreciate if you would thus amend our written comments for the record.

Sincerely,

Bruce Watson
President-Elect

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Written Testimony of Bruce Watson, Enough is Enough

**Public Hearing
Held by the National Commission for Library Information and Science**

**Comments by Bruce Watson
President-Elect, Enough Is Enough**

I appreciate the opportunity to speak to you this morning. I am Bruce Watson, President-Elect of Enough Is Enough, a national organization dedicated to making the Internet safe for children and families. I would like to address two issues:

- Is Internet pornography and sexual predation really a problem?
- What do parents expect of libraries in this situation?

Is Internet pornography and sexual predation really a problem?

Frankly, it is no longer in serious dispute that the problem exists. For example, the gathering of 400 people in D.C. last December at the White House-initiated *Internet Online Summit: Focus on Children* was an explicit recognition that Internet pornography and predation is a real problem affecting children. However, the published comment of one senior ALA official that “only one child out of a trillion billion might use library computers to seek out porn,” suggests that it is still necessary to speak to the issue in this forum for the record.

At Enough Is Enough, we focus on what we believe to be the two primary dangers to children on-line -- children's easy access to pornography, and pedophiles' easy access to children. Many libraries have already chosen to reduce the danger to children from on-line predators by not providing access to chat rooms, newsgroups and e-mail but this does not protect children from pornography on the Internet.

Estimates of the number of commercial pornography sites on-line vary between 40,000 and 100,000 or more. More importantly, these are among the most frequently visited sites on the Web. Last year, *Inter@ctive Weekly* estimated that the aggregate revenue of porn sites was approaching one billion dollars. And the *Wall Street Journal* noted that “While many other Web outposts are flailing ... Cyberporn is fast becoming the envy of the Internet.”

As a result, hard-core pornography is stunningly easy to find on the Internet. This can be demonstrated by a simple unfiltered word search on a standard search engine like Yahoo, for words as innocent as woman, girl, boy, dollhouse, gang or pets. To require hormonally-supercharged fourteen-year-olds to keep saying “no” to the resulting offerings from unfiltered browsing is unrealistic. The protection of minors from pornography should not be entirely up to their own self-discipline.

Even more disconcerting are the many “stealth” URLs used by Internet pornographers. Examples include “whitehouse.com,” a hard-core porn site which parodies the official “whitehouse.gov” site; “sharware.com” just a typo away from the popular “shareware.com” site; and “bambi.com” which has nothing to do with the famous Disney cartoon. In each case, and many others, a child entering the wrong look-alike name into a browser is taken directly to a porn site.

Given how easy it is for children to encounter pornography online, is there any reason to believe this is not happening in libraries? Well, absent filtering, why wouldn't it? And, in fact, each month brings more reported instances, which are documented in our files and those of Filtering Facts. The following few examples are typical of many on file:

- In January, 1998, the *Cupertino Courier* reported various children exposed to pornography in the county library, such as the girl who found Playboy links while looking for information on rabbits.
- In February 1998, the *Detroit News* described a librarian working with a mother and child to find an address for a wholesome magazine called American Girls. When she typed in ‘American Girls,’ she got more than she bargained for.
- In December 1997, the *St. Petersburg Times* reported a man monopolizing a library computer for hours to surf for pornography, then luring three young boys to the screen.

What do parents expect of libraries in this situation?

Most parents have a very simple expectation of their local libraries in response to the mixed blessing of the Internet. It is simply this: ***don't change the library's selection policy just because of a new technology.*** In other words, if the print equivalent of a website would not meet the library's selection criteria, why carry the online version?

In some circles, however, the response is that the only historical constraint on library acquisition policies has been financial and that the Internet “removes” the financial constraint. The Internet, of course, does not remove financial constraints; it merely changes the unit of measure. More importantly, selection policies are not set by purely financial constraints, unless you have unbounded belief in the power of coincidence. For example, if you search a number of public libraries for a given piece of only moderately popular fiction, you can expect that some will have it, others won't. But if you look for the print version of

Hustler, or the video of *Debbie Does Dallas*, you won't find them anywhere. This is not coincidence -- it is because selection criteria are based on more than budget constraints. Such materials have never been considered part of the mandate of a public library. Why start now? And for kids?

I have seen it argued that, if parents would not drop their kids off to spend an hour unsupervised in the middle of New York City, then they should not drop them off in the library and expect free baby-sitting. Well, librarians are not baby-sitters, and should not be expected to be. But it is a long way from the Supreme Court's description of a library as "a place dedicated to quiet, to knowledge and to beauty" to Central Park, New York City. If libraries redefine themselves as an unsuitable environment for unaccompanied minors, they can reasonably expect to lose the support of their patrons and constituencies.

Intellectual freedom is an important value in our society. So is protecting kids. But the issue is not which value should trump the other. It is simply that there is nothing intellectual about hardcore pornography. Accordingly, we believe that libraries should filter Internet access for minors, unless the child's parents have given specific approval for unfiltered access. The First Amendment will not fall in ruins if libraries continue their time-honored policy of not providing pornography to children.

Is Pornography Really So Easy to Find on the Internet? -- Fact Sheet

Many people wonder how easy pornography is to find on the Internet, since there is a great deal of misinformation on the subject. Unfortunately, pornography is freely and easily available to children on the Internet, in both commercial areas on the World Wide Web and in non-commercial areas such as Usenet newsgroups.

In addition to pornography that would be considered legal for adults in print and broadcast media, children have access on the Internet to material which is illegal even for adults, such as obscenity and child pornography. Even worse, children can find this material intentionally or unintentionally.

Unintentional access to pornography

1. Stealth sites: There are numerous hard-core pornography sites on the Internet using "copycat URLs" to take advantage of innocent mistakes to bring traffic to their graphic sexual images.

a) Minor sites: Children searching the Internet for the official web site of the White House can be confronted by hard-core pornography by mistyping www.whitehouse.com, rather than whitehouse.gov. The official NASA site has been similarly copied by pornographers.

b) Spelling errors: Children who mistype www.betscape.com instead of netscape.com, or www.sharware.com instead of www.shareware.com, will be confronted with live sex shows and other X-rated pictures.

c) Misuse of brand name: A key word search for "amazon.com" also yields links to the porn index, "amazon-cum.com." An innocent search on "Disney cartoons" can yield links to hard core pornographic cartoons.

2. Key word search: Children using Internet search engines to look up innocent information will easily receive links to pornographic sites:

- a) Innocent searches for toys, dollhouse, girls, boys, or pets can yield numerous links to sexually explicit sites, like www.boys.com, which features men and boys engaged in sexual activity.
- b) Even more disturbing, searches on children's favorites like Beanie Babies can lead to porn locations like hotbabes.com. Is a hard-core porn site like "bambi.com" deliberately targeting children?

Intentional access to pornography

Curiosity in children and teenagers is natural and healthy, but if you seek pornography on the Internet, it is almost impossible to miss. Youngsters seeking information about sexuality on the Internet will be confronted with pornography's negative, anti-social messages that can forever alter their views of sexuality and relationships.

1. Keyword search: Curious children and teenagers can easily find pornography using search engines and words like "sex," "hard-core," and similar terms.
2. Obvious URLs: Children and teenagers can guess at explicit web addresses such as www.sex.com and even www.bestiality.com and view graphic hard-core pornography.

Once children have been exposed to graphic sexual content on the Internet their innocence can never be regained. The protection of children from pornography should not be entirely up to their own self-discipline.

Enough is Enough

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www.enough.org

"Why Can't We Have a Cyberworld That Looks Like This?" From Enough is Enough



Imagine...

*Other have seen what is and asked "why?"
I have seen what could be and ask "why not?"
Robert F. Kennedy*

It has been said that the Internet was designed with two underlying values: technological effectiveness and freedom of speech. Well, that's a good start, but is it the whole story? We'd like to suggest some more freedoms of choice for a user-friendly Internet.

Why can't we have a Cyberworld that looks like this?

>Where you can do a casual search on innocent words like girls, boys, pets, dollhouse or toys -- without graphic links to porn sites intruding as a result.

- >Where those who choose to sell pornography on the Internet also choose to ensure that children do not have free and easy access to such material.
- >Where the choice of those who prefer not to encounter pornographic material is honored, and not challenged by the constant need to say "no."
- >Where parents are familiar with Enough Is Enough's non-technical "Tips for Parents" on children's online safety.
- >Where children online are familiar with Enough Is Enough's "Rules of the Road for Online Kids."
- >Where children can have a safe experience in chat rooms without becoming the bait for pedophiles or sexual predators.
- >Where sexually-oriented content is zoned into a separate area, greatly improving the effectiveness of filters.
- >Where existing laws against illegal obscenity, child pornography and child stalking are effectively enforced.
- >Where industry codes of conduct include a voluntary business decision not to be in the business of distributing harmful pornography.
- >Where libraries can apply the same selection policies on the Internet as they do in print media -- without being sued by the ACLU for "censorship."
- >Where schools provide only safe Internet access to students.
- >Where effective options for "pre-filtered" or "clean" access to the Internet are readily available to all.
- >Where effective categorizing makes it easy to find the good content.

You may say I'm a dreamer, but I'm not the only one.
-John Lennon, "Imagine"

6. Supplemental Material from Janet M. LaRue

[Ms. LaRue's testimony begins on page 38 of this publication.]

The First Amendment Framework

It is crucial to analyze the appropriateness and constitutionality of the use of software filters in public libraries within the proper First Amendment framework. That necessitates understanding the distinction between situations in which the government is acting as sovereign, i.e., regulating private speech in a limited public forum as opposed to situations in which the government is acting as patron or provider of speech. In the context of a public library or public school library, the government is acting as patron/provider and not as sovereign. In choosing not to provide certain speech as a patron/provider, regulations more intrusive than what may lawfully apply to the general public are permissible.

In NEA v. Finley, 118 S. Ct. 2168 (1998), the U.S. Supreme Court acknowledged that there is no constitutional obligation to provide government funding for the arts. The Court said: "And as we held

in *Rust*, Congress may 'selectively fund a program to encourage certain activities it believes to be in the public interest, without at the same time funding an alternative program which seeks to deal with the problem in another way.' 500 U.S., at 193. In doing so, 'the Government has not discriminated on the basis of viewpoint; it has merely chosen to fund one activity to the exclusion of the other.' *Ibid.*; see also *Maher v. Rose*, 432 U.S. 464, 475 (1977) ('There is a basic difference between direct state interference with a protected activity and state encouragement of an alternative activity consonant with legislative policy'). *Id.* At 34, 35.

There is also no constitutional requirement for the government to provide access to pornographic images in public libraries. Even though an individual has a right to access First Amendment protected pornographic images through his or her own computer via an Internet Service Provider, there is no constitutional right to do so through a government funded Internet computer in a public library. As the Supreme Court held in *Capitol Sq. Review Bd. v. Pinette*, 115 S. Ct. 2440 (1995). "It is undeniable, of course, that speech which is constitutionally protected against state suppression is not thereby accorded a guaranteed forum on all property owned by the State."

Environments such as prison, public schools, the military, or the government workplace "must allow regulation more intrusive than what may lawfully apply to the general public. See *Safley*, 482 U.S. at 84-85; *Connick*, 461 U.S. at 143; *Tinker*, 393 U.S. at 507; *GMC* 131 F.3d at 276. In these environments, the government is permitted to balance constitutional rights against institutional efficiency in ways it may not ordinarily do. *Waters v. Churchill*, 511 U.S. 661, 675 (describing governmental power to restrict speech in the name of efficiency; *Safley* 482 U.S. AT 88 (NOTING BALANCING BETWEEN FIRST Amendment rights and governmental interests))." *Amatel v. Reno*, 1998 U.S. App. LEXIS 22540.

"This distinction is often phrased in terms of differential standards of review applicable to the government when it acts in roles other than sovereign. ... But it may be more apt to conceive of it as a distinction between government regulation of public discourse generally, and government regulation of speech within governmental institutions. See generally Robert Post, *Constitutional Domains* 199-268 (1995)." *Id.* at n5.

More emphatically, it is inconceivable and unsupportable to argue that the government must provide access to illegal pornography through public libraries.

There is an absolute and enforceable criminal prohibition under current federal laws against the transmission of obscene material and child pornography over the Internet, Usenet, World Wide Web, Bulletin Board Systems, chat rooms, email, and other online services. *Reno v. ACLU*, 521 U.S. ___, 117 S. Ct. 2329 (June 26, 1997). (See Title 18 of the United States (Criminal) Code, Sections 1462 and 1465.) It is unlawful to transmit obscenity and child pornography by computer transmissions and services which use phone lines and common carriers, just as it is by mail or any other method of interstate or foreign commerce. Such illegal acts also constitute racketeering predicates under the RICO Act (18 U.S.C. § 1961, *et seq.*). State laws likewise make it illegal to bring into or distribute obscenity or child pornography within a state.

Obscenity and child pornography are not protected by the First Amendment and are not within the area of constitutionally protected speech or press. The universal judgment that obscenity and child pornography should be restrained is also reflected in the international Treaty first adopted in 1911 and now administered by the United Nations on behalf of the United States and over 100 nations. See Agreement for the Suppression of the Circulation of Obscene Publications, 37 Stat. 1511, *Treaties in Force* 209 (U.S. Dept. of State). Cited in *Roth v. United States*, 354 U.S. 476, 495 n. 15 (1957).

The dissemination of sexually explicit material legally defined as "harmful to minors" involves *the safety of children* -- a matter of "surpassing" public importance. Most states have enacted "harmful to minors" legislation, patterned after the U.S. Supreme Court case of *Ginsberg v. New York*, 390 U.S. 629 (1968), which upheld controls on the dissemination of harmful matter to minors even though that matter may not be obscene for adults. In *Ginsberg*, the Supreme Court definitively held that protecting children from exposure to obscene and harmful material satisfies a compelling state interest. This was reaffirmed by the Court in *Reno v. ACLU*, *supra*, which recognized the legitimacy and importance of the goal of protecting children from harmful materials, even though it struck the indecency provisions of the Communications Decency Act. The Court in *Reno* did not deny the States their power to enforce such "harmful to minors" laws, just as the Court reaffirmed the enforcement of obscenity laws in "cyberspace."

The voluntary and discretionary use of filtering/screening software by libraries and schools, both public and private, as well as by private companies and institutions, to assist in preventing the acquisition of illegal and objectionable pornography from the various interactive computer services available through the Internet and other online databases and to restrict access to sexually explicit pornographic material on computer terminals, is lawful and fully consistent with the Constitution. It is constitutionally permissible and appropriate for an administration or governing board to employ a software filtering device for library or school computers that provide access to the Internet, Usenet, or other online services. Even though the use of such filters may or may not be required by law, libraries and schools have the right and the privilege of making voluntary use of software programs and services to avoid public, semi-public, and private property from being used to improperly acquire, select, or access material that is unsuitable, offensive, or otherwise undesirable. Just as a library or school has broad discretion in selecting books, magazines, and videos for their collections, avoiding an inadvertent or involuntary selection or acquisition of pornography by employing a software program or other screening service allows for the screening or filtering of that material which the library or school would not otherwise have chosen for its other collections. Such materials may include, but are not limited to, that which meets the definition of obscenity as expressed in *Miller v. California* and its progeny ("hard-core pornography"); child pornography, as defined in *New York v. Ferber*, and 18 U.S.C. §§ 2252, 2256 (minors engaged in sexually explicit conduct or lewd/lascivious genital exhibitions); material harmful to minors, as defined by the "*Millerized*" *Ginsberg* test ('soft-core pornography'). Such discretion may also include whatever other material a board, administrator, librarian, or teacher finds to be "educationally unsuitable" for patrons or minor children; or materials which could cause the use of property, facilities, or services to create a hostile work environment or constitute sexual harassment under applicable State or Federal law. Libraries, schools, and businesses making good faith use of such access restriction software to protect children or to avoid illegal materials for adults is protected from liability by the "Good Samaritan" immunity provided by the CDA. *See* 47 U.S.C. § 230 (c)(2), 110 Stat. 139 (1996). Libraries, in particular, should not, need not, and have no legal justification or obligation to provide minor children with access to hard-core or soft-core pornography or to child pornography and have no obligation or justification to obtain or provide adults with access to obscenity or child pornography.

In addition to the above considerations, whether exposure occurs in a public library, school, non-profit group, or a business, workplace pornography and computerized "cyberporn" is a source of potential legal liability for those vested with management or control over the respective work environments. The viewing of pornography in public places creates an offensive, uncomfortable, and humiliating environment for women co-workers (in addition to unlawfully exposing or displaying such "harmful" material to minors). Pornography in the workplace can constitute or be evidence of sexual harassment in violation of state and federal civil rights laws and create or contribute to a hostile environment in violation of Title VII's general prohibition against sexual discrimination in employment practices. *See* 42 U.S.C. § 2000e-2; 29 CFR § 1604.11; 18 U.S.C. § 242; 42 U.S.C. §§

1981, 1982. See "Pornography, Equality, and a Discrimination-Free Workplace: A Comparative Perspective," 106 HARVARD LAW REVIEW pp. 1075-92 (1993); *Robinson v. Jacksonville Shipyards*, 760 F. Supp. 1486 (M.D. Fla. 1991).

The proscription against obscenity and child pornography, the regulation of material harmful to minors, and the ban against sexual harassment, are grounded upon the legitimate governmental aim of controlling and regulating "*public morality*" (as opposed to "*private morality*"), involve "public health, safety, and morals," and are directed at "*public conduct*," conduct which affects the people as a whole. The use of filtering software to block or screen illegal and offensive material is a protective measure that can provide the best available defense against criminal liability and the only immunity from civil liability under present law. Regardless of the political debate between advocates on "filterware" and "censorware", use of a technically competent, advocacy neutral, filter program is good public policy, good self defense, and good for children and families. As the Supreme Court said in *Paris Adult Theatre v. Slaton*, 413 U.S. 49, 59 (1973), in holding that obscenity traffic is unlawful even among consenting adults: "*Rights and interests other than those of the advocates are involved.*"

Transmittal Letter from Janet LaRue for the Statement of Detective Daryk Rowland for a Hearing Before the U.S. Senate

**UNITED STATES NATIONAL COMMISSION ON
LIBRARIES AND INFORMATION SCIENCE HEARING
NOVEMBER 10, 1998**

Attached is a copy of the testimony given by Detective Daryk Rowland of the Huntington Beach, California Police Department before the United States Senate Subcommittee on Communications Hearing on the subject of the necessity for software filtering in public schools and libraries to protect children from exposure to pornography and sexual predators. I assisted Detective Rowland in the preparation of this statement.

Janet M. LaRue
Director of Legal Policy Family Research Council November 10, 1998

Prepared Statement of Detective Daryk Rowland for a Hearing Before the U.S. Senate

**THE UNITED STATES SENATE SUBCOMMITTEE ON COMMUNICATIONS
WASHINGTON, DC
TESTIMONY OF DETECTIVE DARYK ROWLAND,
HUNTINGTON BEACH, CALIFORNIA POLICE DEPARTMENT
FEBRUARY 10, 1998**

OPENING STATEMENT

Mr. Chairman and Members of the Committee. My name is Daryk Rowland. I am a detective with the Huntington Beach, California Police Department and a member of the Southern California Regional S.A.F.E. Team. My assignment is to monitor and investigate criminal activity occurring on the Internet, especially those crimes dealing with child pornography and child sexual exploitation.

My purpose today is to communicate to you the immense danger that exists today for children from sexual predators and hard-core adult and child pornography available on the Internet to children by their use of personal and school computers.

IDENTIFY THE PROBLEMS FOR WHICH THE LEGISLATION IS NEEDED

Examples of how predators have accessed children or thought they were accessing children through the Internet.

Example of how a child could insert a floppy disk into a school Internet computer and access relay chat rooms, even if the school computer does not have the access provided.

Children on-line have their profiles available for people to view which includes age, address, hobbies, school names, etc.

Actual case of a child who made contact with a pedophile on his home computer through a chat room, the parents limited his computer time, he then contacted the pedophile through his school computer. The boy met with and was molested by the individual several times.

Some male perpetrators pretend to be female when contacting minor boys: Actual case where a boy was contacted by an individual whom he thought was a female his own age, who sent him a picture which was purportedly of the female. The perpetrator then arranged for the boy to go to the home of a “male friend” with the promise that she “would also be there.” The boy went to the home where he was molested by the man. The boy still believed that the “girl” existed, even after he was molested. He returned a second time and was molested again.

Commercial email services are available free without requiring any verification of identify. Children use these email addressed, often without parental knowledge. Children can access these services by using a web browser and entering their user name and password. Children can send and receive email from home or school. Example: Mission Viejo boy.

Examples of the kind of pornography children can access, the availability, and easy of access:

“Innocent searches”: Little Women, pets, animals, cheer leading, “Cindy,” other common names and terms.

Mass distribution and collection of thousands of free sexual images including everything from soft-core porn, frontal nudity, bestiality, defecation, urination, and hard-core torture and “snuff” images.

Organizations geared to pedophiles have web sites that tell pedophiles where they can make contact with children. Some of these contact points I have seen are public school web sites and other web sites that cater to children.

Web sites catering to pedophiles have “hot links” to web sites that are supposed to be for children and where children post messages and personal information about themselves.

Pedophiles send adult and child pornography to children to desensitize them, educate them, and seduce them into engaging in sexual conduct. Even in those cases where there is no physical contact, children are being traumatized psychologically and emotionally through engaging in “cybersex chat” with pedophiles. For example, a 15 year-old girl in Huntington Beach who was contacted because of the posting of her profile in at online service. The perpetrator sent her extremely deviant pornography.

CLOSING STATEMENT:

It is my earnest hope that this Committee will introduce and work for passage of a law that will protect children as they access the Internet on school computers from sexual predators and exposure to very harmful pornography. Thank you Mr. Chairman and Members of the Committee for your attention and consideration. I would be glad to answer any questions you may have.

**Executive Summary of the National Law Center for Children and Families
Memorandum of Law on the Use of Filtering Software**

NATIONAL LAW CENTER FOR CHILDREN AND FAMILIES

NLC MEMORANDUM OF LAW ON LEGAL ISSUES INVOLVING USE OF THE FILTERING
SOFTWARE BY LIBRARIES, SCHOOLS, AND BUSINESSES TO SCREEN ACQUISITION OF
PORNOGRAPHIC MATERIAL FROM THE “INTERNET” IS BOTH LAWFUL AND
CONSTITUTIONAL

The National Law Center for Children and Families (NLC) is a non-profit educational organization with attorneys who specialize in assisting and advising prosecutors and law enforcement agents in issues and cases involving the unlawful distribution of pornography and related speech cases. The legal staff has extensive experience in the prosecution of obscenity violations, child sexual abuse, and child pornography in state and federal courts. After reviewing the relevant state and federal statutory and case law, NLC submits that the use of filtering/screening software by public and private libraries and schools is both constitutional and lawful. This NLC Memorandum of Law is being made available to the public to provide the reasons and precedents supporting this position and discuss related issues, including:

There is an absolute and enforceable criminal prohibition under current federal laws against the transmission of obscene material and child pornography over the Internet, Usenet, World Wide Web, Bulletin Board Systems, chat rooms, email, and other online services. *Reno v. ACLU*, 521 U.S. ___, 117 S. Ct. 2329 (June 26, 1997). (See Title 18 of the United States (Criminal) Code, Sections 1462 and 1465.) It is unlawful to transmit obscenity and child pornography by computer transmissions and services which use phone lines and common carriers, just as it is by mail or any other method of interstate or foreign commerce. Such illegal acts also constitute racketeering predicates under the RICO Act (18 U.S.C. § 1961, *et. seq.*). State laws likewise make it illegal to bring into or distribute obscenity or child pornography within a state.

Obscenity and child pornography are not protected by the First Amendment and are not within the area of Constitutionally protected speech or press. The universal judgment that obscenity and child pornography should be restrained is also reflected in the international Treaty first adopted in 1911 and now administered by the United States on behalf of the United States and over 100 nations. See Agreement for the Suppression of the Circulation of Obscene Publications, 37 Stat. 1511, Treaties in Force 209 (U.S. Dept. of State). Cited in *Roth v. United States*, 354 U.S. 476, 495 n. 15 (1957).

The dissemination of sexually explicit material legally defined as “harmful to minors” involves the *safety of children* – a matter of “surpassing” public importance. Most states have enacted “harmful to minors” legislation, patterned after the U.S. Supreme Court case of *Ginsberg v. New York*, 30 U.S. 629 (1968), which upheld controls on the dissemination of harmful matter to minors even though that matter may not be obscene for adults. In *Ginsberg*, the Supreme Court definitely held that protecting children from exposure to obscene and harmful material satisfies a compelling state interest. This was reaffirmed by the Court in *Reno v. ACLU*, *supra*, which recognized the legitimacy and

importance of the goal of protecting children from harmful materials, even though it struck the indecency provisions of the Communications Decency Act. The Court in *Reno* did not deny the States their power to enforce such “harmful to minors” laws, just as the Court reaffirmed the enforcement of obscenity laws in “cyberspace.”

The voluntary and discretionary use of filtering/screening software by libraries and schools, both public and private, as well as by private companies and institutions, to assist in preventing the acquisition of illegal and objectionable pornography from the various interactive computer services available through the Internet and other online databases and to restrict access to sexually explicit pornographic material on computer terminals, is lawful and fully consistent with the Constitution. It is constitutionally permissible and appropriate for an administration or governing board to employ a software filtering device for library or school computers that provide access to the Internet, Usenet, or other online services. Even though the use of such filters may or may not be required by law, libraries and schools have the right and the privilege of making voluntary use of software programs and services to avoid public, semi-public, and private property from being used to improperly acquire, select, or access material that is unsuitable, offensive, or otherwise undesirable. Just as a library or school has broad discretion in selecting books, magazines, and videos for their collections, avoiding an inadvertent or involuntary selection or acquisition of pornography by employing a software program or other screening service allows for the screening or filtering of that material which the library or school would not otherwise have chosen for its other collections. Such materials may include, but are not limited to, that which meets the definition of obscenity as expressed in *Miller v. California* and its progeny (“hard-core pornography”); child pornography, as defined in *New York v. Ferber*, and 18 U.S.C. §§ 2252, 2256 (minors engaged in sexually explicit conduct or lewd/lascivious genital exhibitions); material harmful to minors, as defined by the “*Millerized*” *Ginsberg* test (“soft-core pornography”). Such discretion may also include whatever other material a board, administrator, librarian, or teacher finds to be “educationally unsuitable” for patrons or minor children; or materials which could cause the use of property, facilities, or services to create a hostile work environment or constitute sexual harassment under applicable State or Federal law. Libraries, schools, and businesses making good faith use of such access restriction software to protect children or to avoid illegal materials for adults is protected from liability by the “Good Samaritan” immunity provided by the CDA. See 47 U.S.C. § 230 (c)(2), 110 Stat. 139 (1996). Libraries, in particular, should not, need not, and have no legal justification or obligation to provide minor children with access to hard-core or soft-core pornography or to child pornography and have no obligation or justification to obtain or provide adults with access to obscenity or child pornography.

In addition to the above considerations, whether exposure occurs in a public library, school, non-profit group, or a business, workplace pornography and computerized “cyberporn” is a source of potential legal liability for those vested with management or control over the respective work environments. The viewing of pornography in public places creates an offensive, uncomfortable, and humiliating environment for women co-workers (in addition to unlawfully exposing or displaying such “harmful” material to minors). Pornography in the workplace can constitute or be evidence of sexual harassment in violation of state and federal civil rights laws and create or contribute to a hostile environment in violation of Title VII’s general prohibition against sexual discrimination in employment practices. See 42 U.S.C. § 2000e-2; 29 CFR § 1604,11; 18 U.S.C. § 242; 42 U.S.C. §§ 1981, 1982. See “Pornography, Equality, and a Discrimination-Free Workplace: A Comparative Perspective,” 106 Harvard Law Review pp. 1075-92 (1993); *Robinson v. Jacksonville Shipyards*, 760 F. Supp. 1486 (M.D. Fla 1991).

The proscription against obscenity and child pornography, the regulation of material harmful to minors, and the ban against sexual harassment, are grounded upon the legitimate governmental aim of controlling and regulating “*public morality*” (as opposed to “private morality”), involve “public

health, safety, and morals,” and are directed at “*public conduct*,” conduct which affects the people as a whole. The use of filtering software to block or screen illegal and offensive material is a protective measure that can provide the best available defense against criminal liability and the only immunity from civil liability under present law. Regardless of the political debate between advocates on “filterware” and “censorware”, use of a technically competent, advocacy neutral, filter program is good public policy, good self defense, and good for children and families. As the Supreme Court said in *Paris Adult Theatre v. Slaton*, 413 U.S. 49, 59 (1973), in holding that obscenity traffic is unlawful even among consenting adults: “*Rights and interests other than those of the advocates are involved.*”

Also Submitted for the Record

Also submitted for the record, but not reproduced in this publication are the following items:

- Copy of the results of a World Wide Web search conducted by Janet LaRue on September 8, 1998 using “toys” as the search inquirer. The search resulted in 159,499 “hits.” The second “hit” was for “Sex Toys-Adult Toys, Sex Toys, erotica-toys, cyber-sex-toys. The attached documents are copies of what could be seen and downloaded without any proof of age, credit card, adult pin number or adult access code. The same material would have been viewable and retrievable by any child.
- National Law Center for Children and Families, Memorandum of Law on Legal Issues Involving Use of Filtering Software by Libraries, Schools, and Businesses to Screen Acquisition of Pornographic Material from the “Internet” is Both Lawful and Constitutional. The executive summary is provided above.

7. Supplemental Material from David Burt

[Mr. Burt's testimony begins on page 43 of this publication.]

Testimony of David Burt: For Further Information

For further information about Filtering Facts:

Filtering Facts, 210 South State Street, Suite 7, Lake Oswego, Oregon, 97034
Phone/Fax: 503 635-7048 Website: <http://www.filteringfacts.org>
E-mail: David-Burt@filteringfacts.org

From the Internet policy of the Boston Public Library:

The Boston Public Library provides computers with filtering software to limit children's exposure to some websites. The software blocks some specific sites that could be offensive to some users. Filtering software may not block all material users might find offensive. Parents may wish to supervise their children's Internet sessions. Parents may give their children approval to use unfiltered computers.

BPL Internet Access Policy, July 31, 1997.
Available: http://www.bpl.org/WWW/internet_pol.html

From the Internet policy of the Dayton and Montgomery County (Ohio) Public Library:

Providing access to the Internet has created a difficult dilemma for public libraries. On the one hand, the public library has a commitment to the free flow of ideas and support of the First Amendment rights of library users by offering, through a documented selection process,

the widest range of information resources possible. On the other hand, the Library's traditional role of selection is voided by the openness of the information on the Internet. The Dayton and Montgomery County Public Library Board has developed an approach to this dilemma that attempts to address both sides of the issue through the use of filtering software on all OPLIN/Internet workstations. The Board's approach in the use of filtering software continues its long-standing tradition of allowing anyone to come into the Library to use the services without identification or registration. While a library card is required when a patron wants to borrow materials, anyone of any age may come and read the books and magazines, and use the OPLIN/Internet service in the library. In order to ensure the free flow of information and support the First Amendment Rights of library users, a filter by pass feature will be implemented. A patron over the age of 18 may elect to bypass the filter by entering his/her library card number to allow them to make their own decision as to the appropriateness of the material. Parents who trust the maturity and judgment of their children will be able to provide this same bypass capability by completing a form.

Dayton and Montgomery County Public Library Internet Policy, March 1998.
Available <http://www.dayton.lib.oh-us/www/policy.htm>

For further reading on the Dayton policy, see "Patron Controlled Internet Filtering", by Tirne Kambitch. Available: <http://www.dayton.lib.oh.us/-kambitsch/bypass/bypass.htm4>

For further information about N2H2, the company that produces the filters "Bess" used in Dayton:

N2H2, 900 4th Ave., Ste. 3400 Seattle, WA 98164 (800) 971-2622
http://www.n2h2.com/main_libranes-frames.htm

For further information about Pharos, a product in development that also interfaces library patron records with optional filtering:

Pharos Systems USA, Phone (281) 333 2082, Fax (281) 333 3049
<http://www.pharos.com>

8. Supplemental Material from Ann Symons

[Ms. Symons' testimony begins on page 50 of this publication.]

Testimony of Ann Symons

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Washington Office

ALA American Library Association

Testimony
Ann Symons, President
on behalf of
American Library Association
before
The United States National Commission on Libraries and Information Science

November 10, 1998

As President of the American Library Association, and on behalf of the 57,000 librarians, trustees, and friends of libraries it represents, I appreciate the opportunity to appear before you today on the important questions raised by the topic "Kids and The Internet: The Promise and The Perils."

Let me be frank. Much attention has been paid in the past several years to the potential perils of the Internet. It has been a principal topic of Internet lawmaking in Congress and many state legislatures. The fruits of that lawmaking have drawn considerable attention and general disapproval from the courts and consumed extraordinary public resources. The media has sensationalized the issue and raised the anxiety of parents and public officials alike.

Far less public attention has been given to building the promise of the Internet: providing resources for the development of quality content; assuring that all kids have Internet access, and developing Internet literacy for the generations that will live in a global information society. To be sure, there are dangers that we must address if this new medium is to serve the needs of all children. But I firmly believe that the more we build the promise of the Internet, the more we crowd out and dilute the perils.

Importance of Child Safety

I do acknowledge that we must find answers to questions about child safety on the Internet. Answers that will both allay parental fears and not make library staff members responsible for deciding what each and every parent wants his or her child to see or not see. While filtering may seem an obvious solution, most of us know it is a quick fix at best. The best and ultimate filter is the human mind. Knowing how to make informed decisions about what we choose to see, hear and view is an essential skill in the information age --whether in the library, at school, at work, or in the privacy of your home.

Just as parents have to guide their children in what they can and cannot watch on TV, buy at the mall, and do after school, they must learn to teach their children what they feel is acceptable for them to view on the Web. Many of today's younger children will not even remember a time when there wasn't e-mail and an Internet. The opportunity to work as partners with parents by teaching them to guide their children in using the Internet is one of the most exciting opportunities that librarians have today.

Our children are growing up in a global information society. They need to learn the critical viewing and information skills that will lead them to make good judgments about the material that they encounter on the Internet. They need to be able to assess as well as access information--to distinguish between that which is useful and that which is not. We do not help children when we simply wall them off from information and ideas that are controversial or disturbing. If they are to succeed in the information age, they must learn to be discerning users of information.

While parents and other care givers are primary, librarians have a key role in helping all children to have safe, educational, and entertaining experiences online. Librarians do this by promoting access, quality, education, and local control. I'll discuss each of these in turn. But a key part of each is child safety. One of ALA's earliest and most popular tools, The Librarian's Guide To Cyberspace For Parents And Kids (<http://www.ala.org/parents/greatesites/guide.html>) features safety tips. They are highlighted in my statement; they constitute a brief set of rules easily understood by children and those who care for them. They are consistent with guidelines recommended by many other children's advocacy organizations. ALA and local librarians recommend discussion of these safety rules in the home, the school, the library, and any other place where kids and computers come together.

I, for one, believe that education; time and experience will help to resolve many of the tough issues we are struggling with today. But there must also be active involvement by online service providers and law enforcement officials at all levels if we are to deal effectively with child predators and other online dangers.



The best way to ensure your child's safety on the Internet is to be there. Of course, that's not always possible. Just as you teach your child rules about dealing with strangers outside the home, you must provide rules for communicating online.

Some Suggested Rules:

1. Always ask your parents' permission before using your full name, address, telephone number or school name anywhere on the Internet.
2. Always tell your parents or other adult you trust if you see something online that is scary or that you don't understand.
3. Don't respond to messages that make you feel uncomfortable or uneasy.
4. Never give out a credit card number or password online.
5. Never arrange to meet in person someone you've met online unless you discuss it with your parents and an adult goes with you.

Teach your children to be wise consumers in cyberspace. Not everything they see or hear may be true. Some sites may be trying to sell them something.

The vast majority of Internet sites are perfectly safe. But, like the real world, the virtual world contains some sites with sexual, violent and other content that may not be appropriate for children. Since different families have different standards, it's important to establish clear guidelines for your child's Internet use.

If you have a home computer, a number of software programs are available to block Web sites you may not want your child to visit. Even if filters were 100 percent effective, this software is no substitute for parental guidance.

We strongly recommend that you supervise your child's Internet use at home and at the library, and that you teach your child to make informed choices.

Kids Must be Logged on and Literate

Simply put, kids who aren't logged on won't be literate in the 21st century. The greatness of our libraries has always been two-fold: our unwavering commitment to intellectual freedom; and our guarantee that all people have free and open access to information regardless of age, ability to pay, or social or political background. As we approach the new millennium, Internet access is a *sin qua* non of intellectual freedom. While we must be mindful of the risks that are associated with any activity involving our children, we cannot permit fear or controversy to overshadow or undermine the extraordinary promise the new information technologies have to transform how we learn, work, and conduct civic and cultural life.

In June 1997, librarians celebrated a major victory for intellectual freedom, after the Supreme Court struck down the Communications Decency Act. Eighteen months later, many of us are struggling with unresolved questions resulting from that decision.

Merely professing adherence to intellectual freedom is easy. Applying its principles in controversial situations is hard. The debate over the use of the Internet in libraries has opened a national discussion and galvanized the library community as no other issue ever has. Much of this debate is about protecting children from harmful individuals and what some view as "harmful" material. Some of the results of those debates may indeed make the Internet safer; the Children's Online Privacy Protection Act, which will limit collection of personally identifiable information from children, is a case in point. Others such as "CDA II," which Congress adopted before adjourning will, in my view, do far more harm than good. But such concerns, while natural and important, should not be allowed to overshadow other equally important issues that relate to the "promise" and not the "peril" of the Internet.

Four Concerns - Access, Quality, Education, Local Control

The American Library Association has four main concerns which we believe relate to the promise and help avoid the perils of the Internet -- access, quality, education and local control. I'd like to talk briefly today about each of these concerns, how they relate to fulfilling our mission--to bring the marketplace of information and ideas to all people, including children, and to protect and enhance intellectual freedom.

Access: If you take away the hype and the fear, the bottom line is that the Internet is simply a tool, one which is becoming increasingly important to the way we live, learn, work and conduct business. For all of us, it is a tremendous resource. For librarians, the true peril would be if we are not able to bring this resource to all children, not just those who can afford computers and online connections. For many children, school and public libraries may be the only place they have access to computers and the Internet.

With ALA's leadership, the federal government, states and communities across America are investing in libraries as public access points for information technology. The latest study shows that 73% of public library outlets offer public Internet access. However, nearly half of these have only one multimedia workstation available to the public. These single terminals tend to be connected at speeds of 56 kbps or less, no longer sufficient for public access for library applications. This new study was sponsored by ALA's Office for Information Technology Policy and your Commission. While progress is being made, much work must be done if all libraries are to provide full public access by the year 2000.

Quality: This problem is compounded in cyberspace where the vastness and lack of organization can make it difficult to find "the good stuff." Today librarians are working to find, organize, and evaluate online resources in much the same way they do books and other materials. Many libraries have created special home pages which not only connect children with the best the Internet has to offer, but provide children with opportunities to publish and to share information and ideas with other children.

In the last year, the American Library Association has established a national reputation a leader in promoting quality online resources, particularly for children. ALA promotes the terrific work of local librarians by developing and publishing tools such as the 700+ *Amazing, Spectacular, Mysterious, Wonderful Web Sites for Kids and the Adults Who Care About Them* (<http://www.ala.org/parentspage/greatsites>), sponsored by ALA's Association for Library Service to Children; ALA's 700 Great Sites receives some 35,000 hits per month. Other ALA tools to promote quality resources include *The Librarian's Guide to Cyberspace for Parents & Kids* (<http://www.ala.org/parentspage/greatsites/guide.html>); *Families Connect* (<http://www.ala.org/ICONN/familiesconnect.html>), a website created for parents and children to use together by ALA's American Association of School Librarians; and *Teen Hoopla: An Internet Guide for Teens* (<http://www.ala.org/teenhoopla/>), links to resources of special interest to teens provided by ALA's Young Adult Library Services Association.. These ALA tools have gained national attention from the White House, national media such as *The Washington Post* and *Parade* magazine and local media from coast to coast.

Education: Like movies, radio and TV before it, the Internet has raised many people's fears about its impact on children simply because it is new and not well understood. The best way to deal with these concerns is through education -- education for parents and children to teach them to make wise choices, the same way they do in selecting books, movies and other materials.

Librarians have taken a lead in doing just this. Many libraries offer classes and tutoring for parents, children and others. Among the handouts I brought with me is an ALA brochure, *Kids Connect @ the Library*, that highlights just a few of many outstanding Internet training programs libraries of all types are offering to kids, students, and families.²⁰

In addition, ALA has been a leader in *America Links Up: a Kids Online Teach-In* (www.americalinksup.org), a national campaign to encourage and support educational events in communities across the country. This initiative has brought together the Internet industry with librarians, children's advocates, educators and community groups to teach families how to have a safe and rewarding experience online. The teach-in kicked off this September in Washington, has provided an excellent opportunity for libraries to take a leadership role in their communities with respect to Internet education. ALA provides tips for libraries sponsoring an Internet teach-in (<http://www.ala.org/teach-in>). Already, Some 250 libraries across the country have sponsored teach-ins and many more are planned.

ALA's American Association of School Librarians sponsors ICONnect (<http://www.ala.org/ICONN/>) which offers online classes for parents, librarians, teachers and others in how to use the Internet as an educational resource. AASL's KidsConnect (<http://www.ala.org/ICONN/kidsconn.html>) is an online question and answer service for students, offered in partnership with the Information Institute of Syracuse University and underwritten by Microsoft Corporation. Other ALA resources mentioned earlier also have educational components.

²⁰ The text of the brochure *Kids Connect @ the Library* begins on page 156 of this publication.

Local Control: Local library boards make their own policies. These policies are typically based on professional policies recommended by the American Library Association. ALA policies are based on the First Amendment and accepted best practices of the profession. We know that each community has individual needs and concerns. ALA's policies are offered but not imposed or forced on libraries and library trustees. When libraries make policy in concert with ALA policy it is because they believe in the principles of intellectual freedom and ensuring the greatest access to resources for all. Attempts by state and national legislators to mandate filtering or other specific library use policies are not only inappropriate; they violate basic democratic principles of self-governance.

Value of Public Discussion

The discussion about the use of Internet in libraries is taking place all over America--among librarians, your neighbors, talk show hosts, local governing bodies, Congress, and in our courts. Some of this discussion represents attempts by one facet of our society to impose their values--religious or otherwise--on others. While sexually explicit material is always at the top of the list, many people want to shield children from material on homosexuality, violence, drugs and alcohol, hate speech, the environment, and, perhaps ironically, even sites that advocate free speech on the Internet.

Parents are concerned and they are looking for solutions. Often they feel insecure because they are not as technologically proficient as their children. They want the comfort of being able to depend on other adults who come into contact with their young--including library staff--to protect their children in the same way they would if they could always be with them.

In a broader sense, this is not a new phenomenon. We've said for decades that librarians can't act in place of parents. But as I have shown, there are many ways in which librarians can and do support parents to make the Internet work for their kids.

The questions being raised are not unanticipated. Nor are they new. How can our society protect children from materials that clearly are not appropriate for them? What materials should tax dollars pay for anyway? How much access is too much? What is the role of librarians?

These questions provide those of us who are seeking to preserve the public's right to access information with what we in the classroom call "a teachable moment." The Internet is neither good nor evil. It is simply a tool--one that we as a society are still learning to understand and to use. Librarians must be leaders in all the areas I have outlined: in advocating for access for all; in creating, selecting and compiling quality online collections, in educating both children and adults about the benefits and hazards of this new medium and how to use it wisely, and at the local level, in finding ways to assure the vitality of intellectual freedom, while being responsive to individual and community needs and concerns.

Recognize the Perils; Promote the Promise

The debate over Internet access will continue for many years. And it should. It should continue in our communities, over the airwaves, among library professionals. But the debate must be resolved in such a way that protects all our rights, and includes all our information needs. Protecting the First Amendment in the digital environment is worthy of our time, best professional efforts, and financial resources. Because without that bedrock protection, the Internet will not meet the promise that we all hope for. We must not let fear and exaggeration over the "perils" of the Internet limit the "promise" of this new information tool. For if we do, we stand to limit the future of our children as well.

Educate! Inform! Promote!

Educate!

Inform!

Promote!

Kids, Libraries and the Internet

Why shouldn't libraries use filters?

How can we keep our children safe online?

Why are librarians allowing children to view pornography on the Net?

Will the Internet make libraries obsolete?

Challenging questions like these provide an opportunity to educate our communities about what libraries do and why we do it. But handling tough questions also means being prepared.

The American Library Association is offering three new training programs to local, state and regional library groups of **25** or more:

Public Internet Access: What about Filtering?

Explores the legal, ethical and service issues surrounding filtered Internet access. The workshop includes information on how filters work and don't work. Contact Carrie Gardner at 717-520-2809 or by e-mail at gardnerc@hershey.pvt.k12.pa. Material is available online at <http://www.ala.org/symons/filtering/>.

A Perfect Match: Children and the Internet

Learn more about the issues surrounding children's access to the Internet. Training includes practical advice, policy suggestions and resource materials. Contact Carolyn Noah at 508-757-4110 or by e-mail at cnoah@cwmar.org. Material is available online at <http://www.ala.org/symons/match/>.

Speaking Up & Speaking Out: Libraries and the Internet

Learn messages and techniques for handling tough questions about children's access, filtering and related issues with legislators, media, parents and others. Part of ALA's Library Advocacy Now! program. Contact the ALA Public Information Office at 800- 545-2433, ext. 5042/5044 or by e-mail at pio@ala.org.

Programs are geared for library staff, trustees, Friends organizations, parents, school administrators, community leaders and decision makers.

Experienced presenters and educational materials are available at little or no cost (depending on travel).

Programs can be tailored to public, school, academic and lay audiences depending on your needs.

Updated schedules of advocacy programs and suggestions on how to become a library advocate can be found on the ALA Web site at <http://www.ala.org/advocacy/>.

Legislative alerts and other information are also available on the Library Advocacy Now! Hotline.

To subscribe send e-mail to: listproc@ala.org. Leave the subject blank. In the body, type: subscribe ALADNOW <your first and last name>.

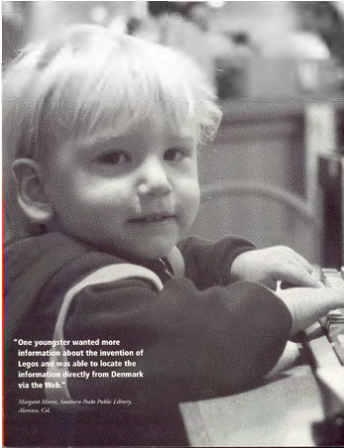
Kids Connect @ the Library: Ideas. Learning. Fun.



Kids Connect @ the Library

Ideas. Learning. Fun.

A message from the American Library Association



Kids who aren't logged on and literate will be lost in the 21st century. In cities from Buffalo, N.Y., and Rockford, Ill., to Gettysburg, S.D., and Portland, Ore., a growing number of public, school and academic libraries provide computers and Internet connections for public use. Many also offer classes, Web sites and other resources to help parents, children and others learn about this important new information tool. For families without computers at home, public libraries provide a lifeline that connects even the poorest and most remote communities with electronic information sources around the world. And librarians are there to help guide them. . In schools, the Internet has added a new and exciting dimension to learning. School library media specialists work closely with teachers to integrate technology into the curricula. They teach students, faculty and parents not only how to access the Internet, but how to think

critically and use its resources effectively. College and university libraries have been leaders in providing access to electronic information. Many work in cooperation with school and public libraries to help educate their communities about new technology. This brochure highlights just a few of many outstanding library programs across the nation.

"One youngster wanted more information about the invention of Legos and was able to locate the information directly from Denmark via the Web."

Margaret Morris, Southern Peaks Public Library, Alamosa, Col.

For Parents

"The Internet and You: A Parent's Guide" has played to capacity audiences of appreciative moms, dads and grand- parents at the **Delaware County Library System**, based in Brookhaven, Pa.

Presented by Dr. Susan Albertine of Temple University, a mother and Internet user, the program aims to educate parents about the Internet and how their children might use it, to address their concerns and provide a forum for discussion of issues surrounding technology and communication.



A companion brochure and Web site titled *"Kids Rules for Online Safety"* suggests Web site links for parents and kids at <http://www.libertynet.org/~delcolib/pweb.html>.

The program was created with assistance from the Pennsylvania Humanities Council and funded by a special grant from the Arco Chemical Company as part of a "Technology, Communications and Community" initiative.

Buffalo & Erie County Public Library, N.Y.

The library's *"Surf City"* programs on Internet safety for kids were cited as "Best Bets" by the *Buffalo News*. An "Owner's Manual" for parents provides information on the history of the Internet, basic terminology, a list of recommended Web sites and other helpful tips.

King County Library System, Seattle

"Awed by the Internet? Want to know more ... for yourself? for your kids?" That's how the library bills "*Cybersafe in Cyberspace: A Parents' Primer on the Internet*," a popular program offered free at all branches. A local insurance company helps to underwrite the programs and hand-outs.

North Salem Middle/High School, Keefe Library, Salem, Ore.

Parents are trained to become Internet coaches for their children as part of "*Logon at the Library Day*" activities. Presented by school and public library staff, parents are taught the basics of Internet use, how to recognize and locate quality Web sites and how to talk to their children about responsible use.

"They told us the program helped them understand what cyberspace is and how to assist their children in navigating the wealth of information available. Others told us they learned how to talk with their children and make distinctions between 'good' and 'bad' sites."

Maria J Veneziana, Delaware County Library System, Brookhaven, Pa.

Putnam/Northern Westchester BOCES School Library System, Yorktown Heights, N.Y.

Parents receive a "*Log on With Your Family*" Tool Kit as part of a presentation designed to answer their questions and concerns. The program was one of seven projects funded as an Electronic Doorway Library Demonstration Project in New York State in 1997.

Rockford Public Library, Ill.

"*Easing on to the Information Highway: A Parent's Guide to the Internet*" is one of several "tech" programs offered by the Rockford Public Library. A local television station and Web page design company have been partners in these efforts to introduce the public to new technology.

For Students

A Pueblo Indian man who died seven hundred years ago lives again in the 5th and 6th grade classrooms at **Mount Laurel-Hartford Upper Elementary School** in New Jersey thanks to school library media specialist Shayne Russell.



The students are researching the Pueblo Indians of the Southwest based on the findings of Russell and other educators who participated in an Earth Watch archeological dig near Springerville, Ariz. EarthWatch archeologists answer questions and provide online guidance to the students.

Students are at work cataloging shards of pottery and other items retrieved from the excavation of a Pueblo village. Their final projects will be shared with other students and researchers

around the world via a special Web site.

Brown Middle School, Harrison, Tenn.

"*Partners in Time*" links students with other students from regions in the U.S. through electronic links to share information about their state, geographic region, daily life and historical events important to their areas. They also exchange "artifacts" or "clues" to help each other discover the identity of their partner's school area.

Dwight-Englewood School, Englewood, N.J.

The "Baby Egg Project" involved 10th-grade biology students in using Internet resources to conduct research on genetic diseases. Student "couples" filled out questionnaires about their genetic and ethnic family histories. They were then told that they were at risk for bearing a child with a specific genetic disease. Using the Internet, CD-ROM databases, e-mail and other library resources, students investigated medical facts, insurance implications, possible treatments, life span and other aspects of the disease. Each student kept a daily journal, prepared a pamphlet on the disease and carried a real egg representing the "baby."

Kingswood Regional High School, Wolfeboro, N.H.

Working in pairs, 10th grade students conducted research on presidential candidates, using e-mail, fax, letters and telephone. Their efforts culminated in a "Meet the Candidates Night" open to the public with representatives of the candidates.

Princeton High School, Cincinnati

Ninth grade students expand their research and technology skills by exploring ancient civilizations on the Internet. They learn to use search engines, listservs and newsgroups. At the completion of their project, students analyze and evaluate the results of their research and prepare a report.

"The Internet opens up a whole new world of opportunities for learning."

Shayne Russell, Mount Laurel-Hartford Upper Elementary School, N.J.

Pulaski High School-Academy of Integrated Technology, Milwaukee

Introducing students both to careers and the Internet is the goal of a Career Investigation unit that involves all 9th grade family citizenship classes. Students investigate a career using both the Library Media Center's print and online resources. For many, the unit is their first experience with electronic information and how it can help them in their daily lives.

For Parents, Kids and Others

The Multnomah County Library in Portland, Ore., is among a growing number of libraries that provide extensive online collections for children, teens and adults.

These services are supplemented with "TechnoHosts," specially trained volunteers who assist members of the public in learning about the Internet and other computer technology.

The library's online resources include:

The Kids Page, <http://www.multnomah.lib.or.us/lib/kids>, a place where young readers can recommend books they like, visit the Beverly Cleary Sculpture Garden site, enjoy the Library joke of the Month, and take advantage of the Homework Center's links to more than 500 Web sites on topics most requested by students.

The Library OuterNet, <http://www.multnomah.lib.or.us/lib/outer/>, a site for young people ages 12 to 19 with information and links to topics teens need and want to know about.

The Home Schooling Home Page, <http://www.multnomah.lib.or.us/lib/homesch/>, a guide to the library's materials and services of interest to home schoolers.

Dauphin County Library System, Pa.

The library's *Treasure Hunt*, <http://www.ezonline.com/dcls/pirate>, is a hit with adults as well as teens. Other techno-programs include *"Surfing the Net: What Your Kids Are Up To,"* a workshop for parents, and Internet training workshops on hot topics like genealogy, relocation and job hunting. The library produces *"Internet Updates"* highlighting Web sites of interest in cooperation with the local public radio station, WITF-FM.

Danbury Public Library, Conn.

"Take Your Grandparents to Cyberspace" is the title of an innovative program to teach children, parents and grandparents about the Internet. Any child/adult combination is considered a team. The program, based upon *"Charlie and the Chocolate Factory,"* features an Internet Scavenger Hunt in search of Cyber-Chocolate to help adults and children hone their Web skills.

East Cleveland Public Library, Ohio

A small branch in an inner city neighborhood is now a high tech center heavily used by local youths. The branch has about 25 networked PCs with the latest software and Internet access available.

"Our goals are to help people feel comfortable with the technology and give them basic skills to use it."

Walter Minkel, Multnomah County Library Portland, Ore.

Free Library of Philadelphia

The Bits and Bytes Program helps children and families develop computer and information retrieval skills. Children learn how a computer works, basic computing vocabulary, keyboarding skills, software applications appropriate for their age, use of the library's online catalog and how to do research on the Internet. The program also assists teenagers in coping with family social situations and helps school age children improve their reading and math skills.

Florida Atlantic University Libraries, Boca Raton

Ninety-five percent of community members who attend free Internet classes are of retirement age. Students use e-mail to communicate with their children and grandchildren. They are especially interested in using e-mail to send and receive attachments-pictures of their grandchildren.

Saint Paul Public Library, Minn.

Encouraging girls to take a leadership role in the use of technology is the focus of a youth mentors program developed by the St. Paul Public Library in cooperation with local Girl Scouts. Youth mentors are trained to assist their peers in using the Internet and other computer and library resources. The project targets young girls, especially those from Hmong and Spanish-speaking families. The volunteer mentor/trainers qualify for a community service badge.

Tips for Parents and Children

1. Take time to learn about the Internet, the wealth of educational resources it offers and how to use it wisely. Attend a class sponsored by your public, school or college library or other community organization.
2. Explore cyberspace with children. Talk with them about what they are seeing and doing.
3. Provide clear guidelines for your children. Let them know there are subjects or areas that you prefer to be off limits and explain why.

4. Teach children "safety" rules for dealing with strangers online such as never giving out their full name, address or telephone number; never giving out a credit card number; or arranging to meet someone online without your permission.
5. Also teach children "*netiquette*"—how to behave online. Rules like not typing in all capital letters (it looks like you are shouting), being polite, and keeping quiet in chat rooms until you get a sense of what people are talking about are good manners as well as common sense.
6. Bookmark sites on your computer that you have reviewed and given your child permission to visit. Check out the American Library Association's "*Great Sites*" and other Web sites of libraries around the country and world.
7. Learn how to evaluate Internet sites. Most public libraries provide books, magazines, brochures and other materials with recommended sites and guidelines. Review sites yourself to determine if they are appropriate for your child.
8. Ask a librarian for more good Web sites. The librarian is there to help you and your child.



"Exchange students communicate by e-mail with family far from the United States."

Annabel Haynes, Hutchinson School, Memphis, Tenn.

A Sampling of Library Web Sites for Parents and Kids

Librarians are experts at evaluating and organizing information. Today they are applying those same skills to the Internet.

American Association of School Librarians, KidsConnect

<http://www.ala.org/ICONN/kidsconn.html>

American Library Association, Great Sites

<http://www.ala.org/parentspage/greatsites/>

Association for Library Service to Children

<http://www.ala.org/alsc/awards.html>

Carroll County (Md.) Public Library, The Author's Corner

<http://www.carr.lib.md.us/authco/home.htm>

Carnegie Library of Pittsburgh

<http://www.clpgh.org/kidspage>

Minuteman Library Network, Mass., KaCey's Web: The Kids Corner

<http://www.tiac.net/users/mln/kacey.html>

Monroe County Public Library, Monroe, Ind.

http://www.monroe.lib.in.us/childrens/childrens_dept.htm

"Students who would never consider buying a stamp are writing long letters and writing them with flair to 'keypals' around the world."

Joyce Valenza, Wissahickon High School, Ambler, Pa.

Ohio Public Library Information Network

<http://www.oplin.lib.oh.us/EDUCATE/WEBKIDS>

Sacramento Public Library

<http://www.sna.com/saclib/kids.htm>

Shrewsbury (Mass.) Public Library

<http://www.ci.shrewsbury.ma.us/library/libtop.htm>

Western Massachusetts Regional Library

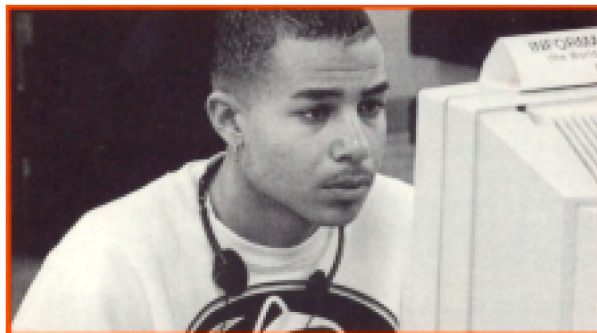
<http://www.wmrls.org/justfor.html>

Wilton (Conn.) Public Library

<http://w3.nai.net/~wla/parents/home.htm>

Young Adult Library Services Association, Great Sites for Young Adults

<http://www.ala.org/yalsa/yasites/yasites.html>



For more information contact:
American Library Association
Public Information Office
50 East Huron Street
Chicago, Illinois, 60611
Telephone: 312.944.6780
E-mail: pio@ala.org
Fax: 312.944.9374
<http://www.ala.org>

9. Supplemental Material from Lawrence S. Ottinger

[Mr. Ottinger's testimony begins on page 60 of this publication.]

Transmittal Letter from People For the American Way Foundation



By Hand-Delivery December 10, 1998

Jeanne Hurley Simon, Chairperson
Robert S. Willard, Executive Director
U.S. National Commission on Libraries and Information Science
1110 Vermont Avenue, N.W., Suite 820
Washington, D.C. 20005-3522

Dear Ms. Simon and Mr. Willard:

Enclosed please find the written testimony of People For the American Way Foundation which supplements our oral hearing testimony, as well as the separate written testimony of the civic organization Mainstream Loudoun, which are being submitted for the official record as part of the Commission's inquiry into the issue of kids and the Internet in public libraries. People For the American Way Foundation and the law firm of Hogan & Hartson represent Mainstream Loudoun and individual parents and residents of Loudoun County, Virginia in their precedent-setting public library Internet case.

Since the Commission's hearing on November 10, 1998, the United States District Court for the Eastern District of Virginia has issued a thorough opinion striking down as unconstitutional under the First Amendment an overly restrictive Internet Use Policy in Loudoun County, Virginia. The two opinions issued by the federal court in the case of Mainstream Loudoun v. Board of Trustees of the Loudoun County Public Library are attached and incorporated as part of the enclosed written submissions.

We believe the Mainstream Loudoun decision and another library case decision in Livermore, California, establish an important legal and policy framework for Internet use policies in public libraries, and should provide great comfort as well as guidance to library managers and to the Commission in its work. The Livermore case stands for the proposition that public libraries can not be held liable merely for providing unfiltered Internet access to library patrons and should allay any fears that a library could be sued for information that it does not itself create or publish. The Mainstream Loudoun case establishes a sound, constitutional framework for Internet use policies, requiring public libraries to examine carefully what demonstrated problems or concerns might exist in their community relating to Internet use and then to fashion policies that are narrowly drawn to meet those concerns and that are the least restrictive possible with respect to patrons' rights to fully and privately access valuable information over the Internet. It also establishes that mandatory filtering policies for all patrons are unconstitutional.

We thank the Commission again for the opportunity to provide testimony on this important topic affecting the future of public libraries as vital centers for voluntary inquiry and exploration serving our entire diverse and democratic society.

Sincerely,

Lawrence S. Ottinger
Senior Staff Attorney

Written Testimony of People For the American Way Foundation

Written Testimony of People For the American Way Foundation
to the U.S. National Commission on Libraries and Information Science
on "Kids and The Internet: The Promise and The Perils"
December 10, 1998

On behalf of our over 300,000 members across the country, People For the American Way Foundation ("People For") would like to thank the Commission for the opportunity to present this written testimony as a supplement to our oral hearing testimony on a topic of great importance to the

future of our public libraries as critical centers of public learning, intellectual inquiry, and knowledge serving the needs of our diverse and democratic society.

Founded in 1980 by a group of civic and religious leaders, People For is a national civil liberties and civil rights organization that is dedicated to promoting and defending fundamental American values and freedoms, including freedom of speech; public access to valuable information; educational opportunity; diversity; and tolerance of individual difference. For many years now, People For has researched and produced reports on attempts to improperly censor books and other materials in schools and public libraries, including books by John Steinbeck, J.D. Salinger, Mark Twain and Maya Angelou which have been among the top books targeted for censorship over the years. While the Internet adds unique opportunities and challenges, many of the local efforts to restrict access to Internet materials in public libraries today are being led by the same groups and are really extensions of the controversies that have surrounded challenges to books and other materials in the public libraries in the past. While legitimate concerns relating to Internet access should be and are being addressed, government censorship of otherwise available and constitutionally protected valuable information because a few people disagree with the views and contents of the materials is as wrong in the Internet context as it is in the paper or book collection. Public libraries are the quintessential centers of voluntary inquiry in our society, and whether on the Internet or from the bookshelves, it is for individuals and families, not the government, to decide what patrons choose to read in the library based on their individual and families' interests and values.

People For the American Way Foundation has been deeply involved with the issues of Internet policies particularly as they relate to public libraries and families. People For served as co-counsel and co-plaintiff in the American Library Association v. Department of Justice lawsuit which resulted in the Supreme Court striking down the Communications Decency Act by unanimous vote in its most significant respects; we participated in two White House Internet summits which in large part focused on the issues of kids on-line as well as parental and user empowerment; and we joined in an amicus brief with the ACLU in the case of Kathleen R. v. City of Livermore in support of the city successfully arguing that public libraries cannot be held liable for tort damages for material that the library does not publish but simply carries by providing Internet access to library patrons. Finally, and perhaps most important here, we represent, along with the law firm of Hogan & Hartson, an outstanding civic organization called Mainstream Loudoun, as well as individual parents and residents of Loudoun County, Virginia in the lawsuit of Mainstream Loudoun v. Board of Trustees of the Loudoun County Public Library challenging what was one of the most restrictive public library Internet use policies in the nation.

Since the Commission's hearing, the federal court has issued a thorough 46 page opinion granting summary judgment against Loudoun County's mandatory filtering policy as unconstitutional under the First Amendment of the Constitution. The grounds for the decision included that the Library Board had failed to show the existence of any real, as opposed to conjectural, threat of harm; that the Policy unconstitutionally restricted adults to reading what is fit for minors; that the Library Board had failed to consider or rejected less restrictive alternatives to address purported concerns such as privacy screens, educating patrons on Internet use, acceptable use policies, optional filtering policies, and enforcement of criminal laws against obscenity and child pornography; and that the mandatory blocking policy acted as an illegal prior restraint on speech. Building on and reaffirming an earlier decision in the case, the court in this case has established a significant legal precedent in this area, applying the traditional, highest level of First Amendment standards to public library decisions to exclude otherwise available information on the Internet based on the content of that information. Attached are the two opinions in the case for the Commission's consideration. In addition, we would refer the Commission to separate testimony submitted in these proceedings by Mainstream Loudoun

which focuses particularly on correcting and informing the record before the Commission on the issue of blocking software and public libraries.

The Legal and Policy Framework for Public Library Internet Use Policies

The Livermore and Mainstream Loudoun cases together establish an important legal and policy framework for Internet use policies in public libraries, and should provide great comfort as well as guidance to library managers and to the Commission in its work. The Livermore case stands for the proposition that public libraries can not be held liable merely for providing unfiltered Internet access to library patrons and should allay any fears that a library could be sued for information that it does not itself create or publish. The Mainstream Loudoun case establishes a sound, constitutional framework for Internet use policies, requiring public libraries to examine carefully what demonstrated problems or concerns might exist in their community relating to Internet use and then to fashion policies that are narrowly drawn to redress those concerns in a direct and material way and that are the least restrictive possible with respect to patrons' rights to fully and privately access valuable information over the Internet.

An Overall Perspective: Stressing the Promise of the Internet

As an overall perspective, the promise of the Internet particularly for young people and future generations is tremendous. The Internet is the communications medium of the 21st century and provides unprecedented opportunities for education, personal growth, and career development for current and future generations of Americans. Indeed, being computer and Internet literate has become an essential skill for children growing up today. Because many people do not have and cannot afford computers or Internet access at home, it has properly become a top national priority to provide affordable, public access to the Internet through public institutions such as schools and libraries. In this regard, the Commission should note the importance of the role of public libraries in providing public access to this essential resource and should ensure that its recommendations not only encourage such public access but also do not in any way impede adults and minors, particularly from low income families, from receiving the enormous benefits of the Internet's resources.

For these reasons, it would be a tremendous mistake and disservice to this ongoing debate and indeed to children themselves to allow discussion of legitimate concerns to overshadow the real promise and opportunity of this medium. The last thing we want to do is to scare off or deter communities and parents, who may be uncomfortable with the new technology, from educating themselves and their children about how to use this resource or how to develop the critical thinking and judgment skills necessary to deal with inaccurate or offensive information that exists on the Internet and elsewhere in the real world. In this regard, public libraries and library managers can and should play an important role in educating parents as well as children about the Internet and how to find desired information and how to avoid or click away from unwanted information.

Framing the Issue: How to Address Concerns about Internet Content

With this perspective in mind, there is no question that among the vast materials available on the Internet are some false, misleading, sexually explicit, and hateful content. However, as the Supreme Court found in striking down the Communications Decency Act, there are significant differences between the Internet and broadcast media, including that users affirmatively decide what information to see on the Internet and will rarely encounter offensive material by accident. The issue then that library managers face is how to handle the existence of such information on the Internet within a legal and policy framework that maximizes the benefits of the Internet; preserves the historic role of the public libraries as voluntary centers of public learning; and respects the autonomy, privacy and

confidentiality of library patrons and families in choosing what materials to read in the public library consistent with individual and family values and circumstances. We believe that as demonstrated by most communities today, public libraries can address legitimate concerns about Internet content through policies that include education on Internet use, acceptable use policies, and the use of lists of recommended children's sites. Privacy and confidentiality concerns as well as any concerns about third parties viewing unwanted material on other users' Internet terminals can be addressed by computer positioning, privacy screens, and/or screen savers that return screens after a period of time to a default page. These policies meet all the criteria mentioned above, can be implemented as preventative measures, and have proven successful in the vast majority of public libraries providing Internet access today.

The Loudoun County Experience: Pitfalls for Library Managers to Avoid

Loudoun County's "Policy on Internet Sexual Harassment" which was struck down provides an illustration of how library boards and managers ought not to handle Internet access. First of all, the Library Board majority never presented any information showing that there was even a significant problem related to unfiltered Internet use in the public libraries before adopting their policy. To the contrary, the Library Director investigated the experiences of 16 Virginia public libraries with the Internet and found that libraries which offered unfiltered Internet use had not experienced any significant problems. Indeed, only one library reported a single complaint by a patron who viewed allegedly pornographic material on a terminal and the library director, testified that the library resolved that single problem through the use of privacy screens. The Library Board's own witness David Burt sent out an e-mail to several thousand librarians in which, on behalf of "defending attorneys," he solicited "testimonial letters from library staff who feel they have been the victims of sexual harassment by being forced to work in a hostile environment where pornography is displayed." As the court noted in its opinion striking down the policy, David Burt admitted in sworn testimony that he did not receive a single response of any such harassment from the thousands of librarians he contacted and, furthermore, the Library Board failed to present even a single incident of such harassment related to Internet use.

Second, rather than positioning the Internet terminals away from other patrons and staff and using privacy screens to avoid even the possibility of accidental exposure to unwanted material, the Loudoun County Library Board directly undermined any such interest by actually requiring in the policy that the terminals be located "in full view" and requiring staff to monitor and stop patrons from viewing prohibited material under threat of eviction and prosecution for criminal trespass. Instead, such policy provisions infringe on patrons' privacy and confidentiality interests. As Mr. Burt admitted in a report he submitted in the case, such "tap on the shoulder" type policy provisions place library staff in an awkward position of policing patron Internet use and chill patrons from viewing sensitive health or other information "out of fear and embarrassment."

Finally, with respect to the issue of filtering software, it is important to clarify this issue as it was presented in the Mainstream Loudoun case. First, contrary to the assertions of the defendant in the case, the issue for Loudoun County and for the minority of public libraries who want to use filters is not filtering versus no filtering but rather mandatory filtering versus optional filtering. The Loudoun County policy that was struck down mandated a one size fits all policy with blocking software required on all computers at all times for all patrons. Even adults were required to use the blocking software. Mainstream Loudoun and the other Loudoun County plaintiffs actually had proposed an optional filtering policy to the Library Board that would allow adults to decide for themselves and parents and guardians to make decisions for children concerning whether or not to use the blocking software taking into account the flaws with the software and their own values. Indeed, in a very positive development, as pointed out in the written testimony of Mainstream Loudoun, the new

Loudoun County Library Board recently adopted just such an option filtering policy to replace the one struck down by the court.

As more fully discussed in the written testimony submitted by Mainstream Loudoun, even what defendant described in court as "the best of the worst" software has blocked substantial amounts of valuable and clearly non-pornographic information including websites for the Quaker Society of Friends, the American Association of University Women, the Heritage Foundation, and a site for beanie babies as well as many sex education and gay and lesbian sites. The library staff's own testing of the software from the perspective of a library patron found that 67% of blocked sites should not even have been blocked under the Library Board's own policy. Even at the same time that valuable material was blocked, as Mr. Burt stated in a report in the case, this "best" software did not block substantial amounts of sexually explicit material that arguably should have been blocked under the Library Board's own policy. In addition, as conceded by the software company itself, as well as Mr. Burt, the software company does not seek to and cannot as a legal matter implement legal standards concerning the material the company chooses to block. Also, as the court found, requiring patrons to request that sites be unblocked at some later date does not solve either the constitutional or practical problems and may actually exacerbate them. For example, one witness testified needing information that was blocked for a job interview the next day while others will be chilled from even requesting access to material out of privacy, confidentiality, or stigma concerns.

Finally, even if a community were to decide to implement an optional filtering policy, despite the above-mentioned limitations of blocking software and the expenditure of staff resources to maintain, update, and troubleshoot problems with patron use of the software, library managers as well as the public need to be aware that some filters on the market intentionally block out material based on ideology and others block based on keywords in searches (as did the software in Loudoun County initially). Using this latter type of software, for example, a search concerning breast cancer or Middlesex County could be blocked. While such diversity of products might be an advantage to a parent choosing software for his or her family, it presents problems for public institutions such as a public library which serves an entire community of persons with diverse views and values.

Conclusion

To summarize, below are some principles we would urge the Commission to set out in its report in order to provide guidance for library managers dealing with the issues of kids and the Internet in the public libraries:

- 1) The promise of the Internet for young children today should be stressed and should not be clouded by concerns about Internet content;
- 2) Any policies responsive to concerns about library Internet access should be based on solid evidence of real, proven problems not speculative fears or threats;
- 3) Such policies should be narrowly tailored to address any concerns and should first attempt and ultimately implement the least restrictive policy with respect to patrons' rights to access otherwise available, constitutionally protected information;
- 4) Adults, parents and children -- not local government officials or library staff -- should decide what library patrons can read and learn in the public library according to individual and family tastes and values;
- 5) Local government officials, public library managers, and public library staff should not usurp the role of parents, guardians, and families in deciding what children can read in the public library;

U.S. National Commission on Libraries and Information Science

- 6) Librarians should continue to serve their traditional role as a resource to educate and provide guidance to adults, parents, and children on Internet use, and should not be required to stand over patron's shoulders and tell them what they can or cannot read in the public library;
- 7) Policies regarding children should not reduce adults to reading what it is fit for children and should distinguish between younger children and older, more mature teenagers;
- 8) Policies should protect the privacy and confidentiality of library patrons' access to library materials of their choosing;
- 9) Behavioral problems involving the Internet such as disturbing or harassing other library patrons or staff should be dealt with by behavioral policies, as is done when such conduct occurs unrelated to Internet use; and
- 10) Internet education, acceptable use policies, guidance to recommended sites, computer positioning, privacy screens, time limits, and other similar policies should be recommended to address concerns about Internet content and display of Internet images in the public library.

Written Testimony of Mainstream Loudoun

Written Testimony of Mainstream Loudoun
submitted to the
National Commission on Library and Information Science
December 10, 1998

Introduction

Mainstream Loudoun welcomes the opportunity to provide testimony to the National Commission on Library and Information Science. Mainstream Loudoun is a non-profit, grassroots membership organization based in Loudoun County, Virginia that is dedicated to ensuring a free and open society that preserves religious and personal freedom as established by the U.S. Constitution. The mission of Mainstream Loudoun includes working to ensure that the public libraries continue to provide information and resources to serve the diverse needs of the entire community of Loudoun County residents in their quest for knowledge, inspiration, enjoyment, and excellence.

Mainstream Loudoun and a number of local residents are plaintiffs in Mainstream Loudoun v. Board of Trustees of the Loudoun County Public Library in which the United States District Court for the Eastern District of Virginia recently held that the mandatory use of software filters violates the First and Fourteenth Amendments to the United States Constitution. Briefly, the court held that the Loudoun County Internet policy was not necessary to further a compelling government interest, that it was not narrowly tailored, that it restricted adult library patrons to accessing only that information that is suitable for minors, that the policy lacked adequate standards for restricting access to information, and that it lacked adequate procedural safeguards to ensure prompt judicial review of censorship decisions. ____ F. Supp.2d ____, 1998 WL 822105, attached as Exhibit 1. Underlying these specific findings regarding the policy's unconstitutionality was the court's earlier determination that the content-based restriction on Internet speech in the library is subject to strict First amendment scrutiny. Mainstream Loudoun v. Board of Trustees of the Loudoun County Pubic Library 2 F. Supp.2d 783 (E.D Va. 1998), attached as Exhibit 2.

Mainstream Loudoun is submitting this information in the hope that our experience with the now-invalidated Loudoun County Internet policy will be helpful to the Commission's deliberations. We are also providing this information because certain testimony previously submitted to the

Commission regarding our case is both incorrect factually and deceptively incomplete. By this submission we intend to set the record straight.

David Burt, a librarian from Oswego Oregon, and a self-described pro-filtering activist, submitted testimony to the Commission on November 10, 1998. In his testimony Mr. Burt, who served as an expert witness for the Loudoun County Library Board, inaccurately described the factual record upon which the court ultimately made its decision. He stated, for example, that "[i]n the Loudoun County case, the plaintiffs claim that about 100 sites were inappropriately blocked by the filter X-stop." Mr. Burt's factual representations are belied by the record and seriously misstate what was at issue in the Loudoun case.

Contrary to Mr. Burt's assertion, the plaintiffs in Loudoun County became aware of literally hundreds of blocked web sites that had nothing to do with the "pornography." The information summarized below, taken from depositions and sworn statements filed with the court in our case, more accurately portrays the scope of the censorship that was imposed by the previous Internet policy. It is important to stress as well that this is not just a numbers game. More important than the number of blocked web sites is the decision-making process by which sites are censored.

Problems With Filters: The Loudoun County Experience

All parties in the Loudoun County case agreed that the X-Stop filtering software at issue blocked protected speech in the Loudoun County libraries. Board members, the library staff, and even Mr. Burt found that X-Stop blocked web sites that have nothing to do with pornography. When it evaluated X-Stop for use under the Policy, the Library staff counted how many web sites were blocked in searches conducted in response to a list of questions, and how many of the blocked sites contained speech that they believed to be protected by the United States Constitution. The staff conducted Internet searches "from the perspective of a user trying to obtain information," and of the 97 web sites found to be blocked in this initial test, 65 sites -- 67 percent of the total -- were considered to constitute protected speech. Blocked sites included web sites for the Society of Friends, the Center for Reproductive Law and Policy, the AIDS Educational Research Trust, Lambda Literary Awards, Sex Education and Safe Sex, a New York Times editorial, Daschund information, Community United Against Violence, the National Journal of Sexual Orientation Law, the American Association of University Women, the Heritage Foundation, the Safer Sex Page, the Index to Censorship, AIDS Quilt Information and others. James Burton, a member of the County Board of Supervisors and ex-officio member of the Library Board, conducted his own investigation on December 1, 1997, and had a similar experience.

Other library patrons further confirmed the significant amount of overblocking from the use of filtering software. In November and December 1997 and in January 1998, a single plaintiff, Loren Kropat, was denied access to well over 100 web sites that were unrelated to pornography. Mr. Kropat was again denied access to many more such inappropriately blocked web sites in July and September 1998, long after the library claimed to have fixed the problem with improved software. At that time he found such web sites as Eyeland Opticians (www.venusx.com); Let's Have an Affair Catering (tor-pwl.netcom.ca/-prk.n.to/index.html); and an academic site devoted to the History of Sex Culture in Ancient China (www.beijingnow.com/chun) were blocked. On November 29, 1997, plaintiff Mary DuChateau was denied access in the Sterling branch to such web sites as the AAUW and others containing information on lesbian mothers and family planning in Germany. Similarly, on December 2, 1997, plaintiff John White was denied access to a number of web sites, including Social Support for Young Gays, Lesbians and Bisexuals (www.youth.org/ssyglb), a web site dedicated to Elsa Dorfman, portrait artist (swissnet.ai.mit.edu/elsa), and the Ethical Spectacle (www.spectacle.org/freespeech). In addition, other local residents reported instances of having access

to protected speech blocked. In March 1998, for example, Heather Petkovic was denied access by X-Stop to a web site hosted by MotherNet, a social service agency for teenage mothers, as well as to the Quaker home page (even after the staff claimed to have "unblocked" this site).

Evaluations by expert witnesses on both sides of this case confirmed that X-Stop blocks information that is not "pornographic." Plaintiff's expert witness, Karen Schneider, after testing X-Stop found that a variety of web sites, including sites related to safe sex, non-explicit gay lifestyle sites and even a commercial site for gay-themed jewelry were blocked. Defendant's expert witness, Mr. Burt, conducted his own review of X-Stop and three other software filters. He found that X-Stop blocked non-pornographic but sexually oriented sites in 8 percent of the web sites he tested.¹ Moreover, between October 1997 and early Spring 1998, even Mr. Burt found the problems with X-Stop to be sufficiently serious that he withdrew his endorsement of the software. At the time, Mr. Burt has stated that he was able to disprove X-Stop's claim of complete effectiveness in 15 minutes, and during the litigation agreed that X-Stop cannot prevent any knowledgeable Internet user from accessing "pornographic" sites.

Mr. Burt testified that the only way to determine whether filtering software is causing over- and under-blocking of web sites is to conduct on-going, periodic tests of the product. Loudoun County had no procedure for conducting such reviews, and it would have been most unwieldy to attempt such an ongoing analysis, since 300 to 500 new sites were added to the X-Stop "blocking list" each day. Indeed, the Library Director revealed that during the entire time its policy was in place, Loudoun County had managed to review about 172 sites out of the reported 80,000 in the X-Stop database. This represents approximately 210 of one percent of the sites blocked by X-Stop,

Accordingly, the library staff did not know which web sites were censored by X-Stop. The list of web sites blocked by X-Stop was never disclosed to the library because it is considered to be a proprietary trade secret. In fact, the company that makes X-Stop rejected requests by the library staff for a list of blocked web sites in the X-Stop database. Even more significantly, the company refused to disclose the criteria by which web sites were selected for blocking. Although the company at one time claimed that X-Stop blocked only material that is obscene under Miller v. California 413 U.S. 15 (1973), it gave up this pretense after this case was filed, and frankly admitted that its blocking criteria are "not even close" to a legal standard.² As Mr. Burt wrote when he revoked his endorsement of X-Stop, "software technicians" cannot apply "a legal standard." This fact will not change for X-Stop, or for any other filtering software.

One of the central problems of filters is that the censorship decisions are delegated to private firms that apply their own, non-reviewable editorial criteria. For example, one of the filters endorsed by Mr. Burt in his testimony to the Commission, a product called Bess, expressly blocks access to the Starr Report to Congress. Indeed, N2H2, the company that makes Bess, issued a press release just after the Starr Report was submitted to the House of Representatives announcing its intention to block access to some 300 web sites that carried the Report. A library that chooses such a filter permits the manufacturer to make a one-size-fits-all choice about what information is appropriate for its patrons.

Software filters may contain additional features that limit the usefulness of the Internet. One version of X-Stop initially used in the Loudoun County library included a "foul word" filter that precluded Internet searches of terms considered to be inappropriate. When this feature is activated, the software prevents searches for such books as "Bastard Out of Carolina" or "The Owl and the Pussycat." The "foul word" filter precluded such searches on generally available search engines such as Alta Vista and on search engines provided by online bookseller, such as Amazon.com. The "foul word" filter was active for a time in the Loudoun County libraries, but subsequently was deactivated by the library

staff. Another library board might well decide to retain such a feature if they choose to adopt filters as a mandatory solution.

Conclusions

Mainstream Loudoun has never suggested that software filters are inappropriate in all circumstances. As the Supreme Court acknowledged in Reno v. ACLU, 117 S. Ct. 2329, 2336 (1997), (emphasis added) filters may provide a possible means by which "parents control the material that may be available on a home computer with Internet access." The different criteria employed by filtering companies -- to the extent they are disclosed -- may be a strength, not a weakness, because they permit individuals to select the product that is most consistent with their personal philosophies. But such benefits do not translate well to public institutions, where the selection of a filter controls access to the Internet for all patrons.

In addition to home use of filters, Mainstream Loudoun has never objected to the voluntary use of filters in public libraries, and publicly advocated such use before the Loudoun County Library Board adopted its mandatory filtering policy. From the beginning, we believed that a truly voluntary use of filters would be acceptable so long as individual choices are respected and filters were not turned on as the default setting.

Similarly, we suggested that the decision about whether minors should be required to use filters is best left to parents, not the government. Mr. Burt appears to endorse such an approach in his testimony (although he adds that it is not his "ideal solution"). And, at its Library Board meeting of December 2, 1998, Loudoun County adopted a new Internet access policy that follows these principles. We believe that this is a far more workable and constitutionally sound approach to providing Internet access in public libraries.

____ [Footnotes]

¹ This finding does not account for differences of opinion between the experts about which sites should be blocked. For example, Mr. Burt testified that a web site with descriptions of gay-themed jewelry, with absolutely no depictions or descriptions of nudity or sexual activity, was appropriately blocked.

² As the then-CEO of Log-On Data Corporation frankly acknowledged, X-Stop does not even "come close" to implementing the Miller test or any other judicial standard. He testified that "We never really applied any legal thing to the word 'obscene.' It was just another word like 'pornography.'" He added that X-Stop cannot apply the standards of the Virginia Harmful to Juveniles law or Title VII of the Civil Rights Act.

Jeri McGiverin, President
Mainstream Loudoun

Elaine Williamson
Library Committee Chair

Also Submitted for the Record

Also submitted for the record, but not reproduced in this publication are the following items:

- Mainstream Loudoun, et al. V. Board of Trustees of the Loudoun County Library, United States District Court, E.D. Virginia, November 23, 1998 (1998 WL 822105 (E.D.Va))

- Mainstream Loudoun, et al. V. Board of Trustees of the Loudoun County Library, United States District Court, E.D. Virginia, November 23, 1998 (2 F.Supp. 2d 783)

10. Supplemental Material From Karen Jo Gounaud

[Ms. Gounaud's testimony begins on page 75 of this publication.]

Testimony of Karen Jo Gounaud



November 10, 1998

Public Hearing

"Kids and The Internet: The Promise and The Perils"

Commissioners:

Thank you for this opportunity to address this crucial topic about the Internet and children. Our credentials and several relevant reports are in the packets before you.

Family Friendly Libraries is a national network of concerned citizens, parents, educators, trustees and library professionals concerned about public library policies affecting children and their families. We provide education and information to a inquirers. Our top priority goal is protecting children from age-inappropriate materials. Our top priority problem has become pornography on the Internet. The material we are referring to when we use the term "pornography" is sexual material created for the exclusive purpose of sexual titillation. This includes both legal and illegal material.

I will use this time to highlight the main complaints about the unfiltered Internet in public schools and libraries, concerns we have received from people across the country:

1. Problems with teenagers using Internet unsupervised –
 - a. Teens upset by accidental exposure to sexual titillation material left by the previous user or sexually explicit material accessed accidentally because of misleading web addresses.
 - b. Teens using library Internet to access age-inappropriate material for several purposes:
 - (1) Sexual titillation for themselves - sometimes leading to harassing behavior towards other teens, particularly females and younger children.
 - (2) Harassing librarians by using print command to send pornography to librarians' desk.
 - (3) Profit -- Download onto discs to sell to other minors (This also occurs in public schools, even with a teacher or supervisor present in the computer room).
 - c. Teens using chat rooms for contact with strangers leading to inappropriate, illegal and dangerous sexual liaisons.

- d. Teens bypassing parental authority by accessing at the library materials that are against the rules at home. (Some libraries require no parental permission; working parents cannot always be there with their teenagers when school assignments require library use.)
2. Problems with adults using unfiltered Internet - all of which affects minors who share library space.
 - a. Increased incidents of male adults watching, touching, or otherwise harassing minor boys in public library bathrooms.
 - b. Increased incidents of harassing librarians by using print command to send pornography to librarians' desk and making suggestive comments to librarians when retrieving such printed material.
 - c. Increased incidents of unpleasant confrontations between librarians reminding patrons of rules against accessing disallowed sites and patrons refusing to comply.
 - d. Increased incidents of library computers being used primarily for sexual titillation materials rather than educational or recreational pursuits within the libraries' stated mission. (Reducing kids opportunities, including needs for school assignments.)
 3. Problems with children using unfiltered Internet. (a. and b. happen even with parents present).
 - a. Children upset by accidental exposure to sexual titillation material left by the previous user or sexually explicit material accessed accidentally because of misleading web addresses.
 - b. Exposure to titillated adults and sexual material on nearby terminals.
 - c. Circumvention of parental authority when allowed to access materials against parental will. (Again, problem with libraries requiring no parental permission. Many parents working and unable to be with minor child old enough to be in library alone and needing to complete school assignments.)

All these problems are unnecessary and unfortunate distractions from an otherwise marvelous educational tool. They are not prevented by rules alone. Technology is a necessity to protect the kids. Machine problems can be adjusted, adapted and erased. What goes into a minor's mind is much more difficult to adjust or adapt and can never be erased. Some pornography is constitutionally protected speech, but there is no Constitutional mandate to make that material freely available for adults, especially not at the expense of the kids. A filter is not an eraser - it's a gate. It does not precipitate censorship, but responsible sponsorship. A young mind is a terrible thing to molest. Please urge public schools and libraries to be more responsible.

Thank you.

Letter From Karen Jo Gounaud



Family Friendly Libraries

For this reason society requires that the education of youth should be watched with the most scrupulous attention. Education is a great measurer; forms the moral characters of men and morals are the basis of government.

Noah Webster (1758-1843)

November 9, 1998

*Founder/President:
Karen Jo Gounaud
Virginia*

*Steering Committee
Chairman:
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*Larry Hovee
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Missouri*

*Sandy Stauffer
Ohio*

*Jennifer Toombs
Georgia*

*Bobbie Vance
Indiana*

*Cedric Wilson
Alabama*

Dear Ms. Whiteleather:

Our organization was quite recently informed about the important public work your Commission will be conducting on Tuesday, November 10 at the Freedom Forum in Arlington. We respectfully request that you give strong consideration to our official inclusion at this event.

We receive calls and contacts from across the United States, including from librarians, teachers, principals and other professionals who seek help in protecting the children they work with from the illegal and age-inappropriate material on the Net. I believe our experience is important to share with your Commission.

The Wall Street Journal on October 22nd published our FFL viewpoint on this issue alongside the ACLU and ALA voices. The CATO Institute also included our organization on a panel discussion this past year relevant to this important Internet debate. I have also attached a general sheet identifying our purpose and work.

We would also suggest that you bear from some librarians who are in the middle of the very circumstances created by unfiltered Internet access in their work environment with unprotected minors.

In short, I would ask for your invitation so we can participate in an official capacity. Thank you for your interest in these important matters. I personally can be reached at 703-440-9419 or by cell phone, 703-402-8849 when I'm away from the office.

Yours truly,

Karen Jo Gounaud, President
Family Friendly Libraries
www.fflibraries.org
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7597 Whisperwood Court, Springfield, VA 22153 (703) 440-9419

Family Friendly Libraries and Karen Jo Gounaud



Family Friendly Libraries and Karen Jo Gounaud

Karen Jo Gounaud is President of Family Friendly Libraries, which she founded in 1995. She's married, the mother of two grown children and holds an education degree from the University of Nebraska. She is the author of "A Very Mice Joke Book", winner of a 1981 New York "Children's Choice Award." Her local Virginia work lobbying libraries to make children's access policies more age-appropriate led to national interest and exposure. When hundreds of others around the country sought her out to share similar library problems, she decided a national organization was needed to share information and advice. She has since been a featured speaker for groups as diverse as the National Coalition for the Protection of Children and Families, the Public Library Association, and the women of Wellesley College. Her organization has been the focus of articles in publications as varied as Citizen Magazine, The New Republic, and the Chicago Tribune. She was a 1996 recipient of an American Family Association God and Country Award and continues to work closely with other national and state groups fighting the problems pornography brings to children and their families. When unfiltered Internet came to public libraries, FFL made Internet problems a priority.

FFL IS -- a national grassroots network of concerned citizens, librarians and library trustees that believe in:

1. More common sense access policies to protect children from exposure to age-inappropriate materials without parental consent.
2. Return to policies placing libraries under maximum local control with more acknowledgment of taxpayer authority and community standards.

Overall we support rebuilding of the communication bridges that have weakened or broken down between public libraries and the communities they serve.

FFL: Does NOT encourage removal of collection material.

Does NOT support government censorship or censorship by unauthorized persons.

Does NOT support any broadbased attack on librarians and library trustees.

Rather than CENSORSHIP, FFL encourages responsible SPONSORSHIP. FFL believes that tax-funded libraries, as branches of local government, should NOT be neutral on sensitive societal issues like law and order and public health. The American Library Association has taken definite positions on important topics as diverse as teen sexuality and nuclear disarmament, but FFL believes tax-paid librarians must give preferred collection development consideration to LOCAL legal and moral standards rather than those of a private national group. Many librarians have reported feeling otherwise coerced by ALA's considerable national accreditation and job security clout. ALA professional aids to basic library science operation are appropriate. Pressure for political activism that opposes local community standards and laws are inappropriate. National FFL also intends only to advise, not dictate.

Overall, FFL emphasizes libraries and citizens being partners, not adversaries. Parents should NOT use librarians as babysitters. Librarians should NOT shirk their responsibilities to the community to protect its children and preserve community standards. Liberty, not license. Rights AND

responsibilities. Honest and respectful communication will lead to creative solutions and community consensus, preserving the REAL First Amendment and a positive future for America's public libraries. That is what Family Friendly Libraries supports most of all.

For more information write to Family Friendly Libraries at 7597 Whisperwood Court, Springfield, VA 22153. Or contact us at Ph: 703-440-3654. Fax: 703-440-8047 or ffl@compuserve.com. See www.fflibraries.org for more.

Memorandum in Support of Loudoun County Library System



Memorandum in Support of Loudoun County Library System

Family Friendly Libraries

February 12, 1998

Family Friendly Libraries is a national network of citizens, parents, educators, trustees, and librarians concerned about public and public school library policies adversely affecting children and their families. We are a non-profit, non-sectarian organization providing information and advice to all inquirers. Our top priority goal is protecting children from age-inappropriate materials. Our secondary goal is helping communities adopt policies that place their libraries under maximum local control with more acknowledgement of taxpayer authority and community standards.

Our top priority problem has become pornography on the Internet. This is because of two important campaigns that have progressed rapidly, successfully and simultaneously on a national scale. One is the laudable effort on the part of educators, politicians and the computer industry to make Internet access widely and cheaply available to as many citizens as possible. The second is the despicable campaign of the pornography industry and its supporters to use whatever funds, politics and legal threats are necessary to keep its Internet products accessible to as wide an audience as possible, including children, regardless of the consequences.

At the troublesome intersection of those two major efforts we now have the widespread available of free Internet access for all ages in America's public libraries including the full range of pornography found in cyberspace. This situation has resulted in serious problems and complaints registered by parents and library personnel from coast to coast. Their major areas of concern include:

1. Exposure of teens and other children to the harm of graphic and explicit sexual Internet images, found either through accidental search encounters or purposeful curiosity missions pursued easily when parents are not around.

Though most concerned parents are not expecting librarians to baby-sit, they do expect that a public library should be a safe browsing environment for kids old enough to be in the library alone, particularly teenagers seeking information for school. This problem is especially difficult for families in which both parents must work, or in single parent households. These hardworking parents do not understand why material that the rest of the community is wisely keeping away from minors is instead freely being offered to children on their public library computers.

2. Exposure of library personnel to the often violent and crude sexually explicit material available on the unfiltered Internet or the sexually crude behavior of patrons accessing such material.

Free pornography attracts a different breed of library patron than those who would use the net for legitimate educational and entertainment pursuits. They are not ashamed of others seeing what they are pursuing. In fact these porn pursuers, usually male, seem to enjoy watching the reaction of the librarians, usually female, and others who are within range of their sexually explicit surfing escapades. Even ACLU spokespersons have admitted that the main purpose of pornography other than profit-making and adult "entertainment" is to be a "masturbatory aid". One library board member from Prince William County Virginia asked, "Why do we want to encourage sexually aroused patrons in a libraries filled with women and children?"

3. Endangerment of children through the encouragement of deviant sex offenders provided by the easy Internet access to sexual websites.

The easier child porn is to access, the more it will be pursued and remain profitable. That illegal activity endangers the children who are used in the materials and other children who are pursued and molested by others who have seen the materials. Though child pornography is illegal, and most libraries have rules against accessing chat rooms or child pornography, rules alone have not stopped determined pedophiles and vulnerable children from making dangerous connections using unfiltered library computers. One such violator in Lakewood, Ohio, was using the library computers to add to his child porn collection. The FBI was assisted by the managing librarian who tipped them off so they could eventually make an arrest. Some libraries offering free Internet pornography have also had increased complaints about men observing little boys using the library restrooms. Librarians should not have to add police work to their job descriptions.

4. Loss of local control by citizens whose library administrators and trustees feel more threatened by outside lawsuits than the local will of the people.

Loudoun is an excellent example of an attempt by the American Library Association to disrupt the local will of the people. Judith Krug, ALA's main Office of Intellectual Freedom's Spokesperson, admits that she helped start the "Mainstream Loudoun" group which is now bringing the lawsuit against the Loudoun library system. Prior to the filing of the suit ACLU's Ann Beeson was searching the net herself and putting out a call within the professional library community for help in identifying a good target for such anti-filtering lawsuits. Ms. Krug used to be on the ACLU board and has worked closely with that group in her ALA job. When Dick Black, the main crafter of the current Loudoun policy requiring porn site blocking, ran for public office recently, he won handily against anti-filtering opponents both for the nomination and for the office in the Virginia Statehouse. In other words, the legal situation the Loudoun Library Board of Trustees finds itself in is not the result of a majority concern or a true grassroots effort - it was a managed attack led by outside forces.

Summary of Support for Loudoun Public Libraries Internet Policy

These complaints explained above have a common solution: Internet blocking technology. Loudoun was wise in choosing this route to responsible public Internet service provision. Though imperfect, such electronic computer "fencing" around illegal pornography and "harmful to minor" materials achieves our two major FFL purposes as well: It protects children from the most harmful age-inappropriate materials, and it gives maximum control to the community to tailor its library computer access to the other community standards.

Local librarians can tweak their blockers to adhere to any guidelines the community has chosen. And they can unblock any site that does not deserve or need a fence. Most important, all the wholesome possibilities of the Internet for children and students of all ages are better protected and preserved for the benefit of all without the threat of cyber porn trapping them instead.

In the meantime, no censorship has occurred. Just responsible **sponsorship**. Disappointed patrons can access what's available on a computer in a private home or business, theirs included. All they have lost is free access to the missing sites, not the missing sites themselves. For the patron who wants everything on the net, library restrictions may be inconvenient, but not illegal. The technology is a gate, not an eraser. The First Amendment and community standards can coexist.

Loudoun County should be praised for making that effort, not punished with a court battle. Family Friendly Libraries strongly recommends, especially for the safety of women and children and the Constitutional American principle of local control, that the lawsuit against the Loudoun County Library System be dismissed.

Family Friendly Libraries Internet Guidelines and Recommendations

Family Friendly Libraries Internet Guidelines and Recommendations by Karen Jo Gounaud

The problems and challenges of using Internet in public libraries has become a priority concern for our group and people who call us for help with that topic. There is also a lot of misunderstanding about what FFL does and does not have on its agenda list. So I have written this summary to increase the communication and clarify our position. About the Internet in public libraries, here are our basic beliefs:

- 1) The Internet is an important, needed and valuable tool that belongs in today's public libraries.
- 2) The technology of filtering and blocking is also a valuable and necessary tool in helping the Internet fit into the needs and standards of each community whose citizens desire to have the benefits of Internet use in their public library.
- 3) The decisions concerning Internet policy for each library system should be made by the elected or appointed trustees with the joint input of local citizens and local library professionals.
- 4) Internet policy decisions should be made and officially adopted PRIOR to the opening of Internet use in a library, not later when complaints start rolling in. An advance public and cooperative effort to formulate policy has the best chance of a result that reflects consensus and will be publicly endorsed and respected.
- 5) It is entirely appropriate for adults' and minors' filtering policies to be different.
- 6) Librarians and parents should be partners in assuring appropriate Internet use by minors. Librarians should not be babysitters, but parents should also be able to expect a level of participatory protection by the library staff.
- 7) Public library Internet policy should be logical and consistent within the context of community standards and laws. Libraries should continue to honor existing codes and practices, regarding access to adult sexual materials. For example, if Playboy and Hustler are not sold to minors in the community stores, the library should also not allow minor access to same from shelves OR computers. If the library does not subscribe to erotica magazines and materials, then that collection development practice should not change in Internet practice and use, even for adults. Illegal electronic materials such as obscenity, child pornography, bestiality, etc., should continue to be unavailable for all.

8) Free Internet access in public libraries is a privilege, not a right. Tax payers are not obligated to supply free cyberporn access, or any other cyber access, to their fellow citizens. Any citizen disappointed by the extent of filtering in their library system is entirely free to buy their own equipment for home use and legally surf away according to their own tastes. A library system's decision to filter or block is a decision about responsible SPONSORSHIP, not CENSORSHIP.

9) The American Library Association is a private organization and their various Bills of Rights for books or cyberspace are the expression of their private philosophy, not Constitutional absolutes. When Trustees are making library policy decisions, filtering/blocking policies included, their first obligation is to the taxpayers who own the libraries, not to the ALA or even the library staff who are also public servants paid by public money.

10) The library staff has a right to work in a non-sexually-hostile environment. An unrestricted Internet raises greatly the opportunity for machine users to endanger such a safe environment for library personnel. Librarians should not have to police and confront patrons who choose to operate in prurient websites outside of recommended library policy guidelines. The policing should be automatic and technological freeing the librarians to do their regular professional jobs and help them maintain good relations with their patrons.

FFL Endorsements:

Research and Technology –

For up-to-date technological information on filtering options for the Internet and news about their use in America's libraries, we invite you to visit the website of David Burt, an American Library Association member and technological librarian for the Lake Oswego Public Library in Lake Oswego, Oregon. His website is: www.filteringfacts.org or reach him by e-mail at Davidburt@filteringfacts.org. His article in the August 1997 American Libraries is also very informative.

Policy -

The Library Trustees of Loudoun County, Virginia, after extensive research, hearings, discussions and debates just passed on October 20th a final policy on Internet use, including safeguards, that FFL believes is the best model to date. For more information on this policy, you may contact Trustee Dick Black at 703-406-7850. He is also a practicing attorney.

Legalities –

For the best legal explanation of what the Supreme Court CDA decision does and doesn't mean, in relation to the question of filtering/blocking Internet terminals in public schools and libraries, we recommend you contact the National Law Center for Children and Families headquartered in Fairfax, Virginia, for their definitive report on that matter. Phone is 703-691-4626.

Education –

For additional assistance in helping your community library system arrive at a practical and responsible Internet policy, and for educational materials about pornography on the Internet, contact Enough is Enough headquarters in Fairfax, Virginia, and ask for their information packets and recommendations. Phone 703-278-8343 or <http://www.enough.org>.

Resource –

For overall help in leading kids to positive Internet experiences, get Jean Armour Polly's **INTERNET KIDS AND FAMILY YELLOW PAGES** with free online updates at

<http://www.netmom.com> published by Osborne/McGraw Hill, ISBN 0-07-882340-4 and <http://www.osborne.com>.

Karen Jo Gounaud, President, Family Friendly Libraries at 703-440-9419 or ffl@compuserve.com

Searching for Common Ground in the Internet Debate

Searching for Common Ground in the Internet Debate
by Karen Jo Gounaud
President, Family Friendly Libraries
10-12-97

The Internet pornography issues have provoked a wide range of debate activity within broadcast news specials, magazine cover stories, town hall meetings and discussion groups on the net itself. For months now I've been participating, as chief spokesperson for Family Friendly Libraries, on a diversely populated online listserve called "Filt4lib" whose main topic, mostly philosophical in nature, is "To filter or not to filter in public libraries."

One member recently proposed a fantasy debate placing all the regular conservative voices on the liberal side: "Resolved - no filters" and the opposing liberal voices on the conservative side: "Resolved - yes, filters." Some of us were named along side unlikely team members on the judges' list, and the recommended moderator was Bruce Ennis of ACLU/Supreme Court action fame.

The imaginary forensic scenario provided a good laugh in the midst of a turf more used to tension. But it also inspired me to take one serious seed from the humorous intent and to suggest the following: It is not a bad idea for each of us to make a genuine effort from time to time to get inside other people's opposing viewpoints and try to understand them. From such exercises, common ground can be found. And on common ground, people can build together what is beneficial to everyone.

After my personal effort to "walk in the sandals" of my philosophical opponents, I offered for listserve comments a patchwork of pieces I believed were candidates for that elusive common ground. I proposed that most library professionals, including those sometimes referred to as "First Amendment Purists" and the concerned parents of this country, including those the purists sometimes call "right wing extremists" would agree on the following:

Child pornography, which is illegal in America, does not enhance the Internet's educational benefits.

Some pornography portrays visual material that does not enhance the growth and development of most children.

Children whose parents are very and lovingly involved in their lives, including their cyberspace lives, are better off than those whose parents are not involved.

Single parents and two-parent working families up against financial crunch are not purposely neglecting their kids when they are not always available to supervise every free minute of their kids' lives, including time spent at the library alone with other kids.

Technologists, library professionals, elected officials, law enforcement, parents, and other concerned citizens working together to talk about and resolve the issues connected with Internet use in schools, libraries, work and home is preferable to hostile exchanges and environments in which there is no sincere desire to find common ground and workable shared solutions.

Public libraries where trustees, library professionals and parents have regular and respectful communication going on as a regular thing (not just during a crisis) operate more beneficially for all involved than those, where the "us" against "them" mentality has arisen within a hostile environment described earlier.

“Pornography” as a category will continue to be a tough issue to discuss or debate as long as those who produce it keep getting rich because so many people want it.

Though many children can be quite bright and witty and even more knowledgeable about some things (like computer technology) than their parents, the mind of a child is still quite different than the mind of an adult. That difference matters, and should not be ignored, though we may disagree on what that implies and on when the one becomes the other.

The "village" has a responsibility overall to protect children from some things that can or do harm them. We may disagree on what to put on the harms list, but I believe most of us can agree there is a list. Most of us would put child pornography on the list, would we not?

Could we also agree that public libraries are part of the village?

First Amendment "don't you dare filter" defenders are not automatically the enemy of children and their parents. Concerned "you better filter porn" parents are not automatically the enemy of the First Amendment.

Do you all think these items I just mentioned can be said to be part of our common ground? Could we also agree that everybody in every category, including the ALA leadership, and conservative religious leadership, could be doing more to promote even-tempered discussions and debates on these issues? Hopefully, the AOL "Internet-Online Summit: Focus on Children" many of us will be sharing in October and December in Washington, DC, will lead in the direction of reason and responsibility.

Judy Krug, ALA "Intellectual Freedom" spokeswoman, and I will be together on one of the committees. We are typical ideological opposites, and so are our respective organizations. But if she is sincere about helping the rest of us protect children from materials on the Internet that we believe are harmful to them, I for one will be more than willing to help her search for that common ground upon which we can both stand together. If she will stay calm when I use the word "blocking", I will have, no trouble smiling when she says: First Amendment.

But I will not compromise on my belief that children using public libraries unfettered Internet are in a dangerous situation, and a fine playground next to a deep pit is not a substitute for good fencing. How high? Made of what? Who should build it? Who should maintain it? We should be able to discuss those questions with civility and creativity. But the pit cannot remain as it is. If anyone thinks it can, THAT is not a fantasy. THAT is a nightmare.

America's children and their parents do not need any more nightmares, and neither do the librarians. To borrow a peaceable phrase from Isaiah, "Come, let us reason together."

11. Supplemental Material from Donna Rice Hughes

[Ms. Hughes' testimony begins on page 78 of this publication.]

Expert Witness Report by Donna Rice Hughes

My name is Donna Rice Hughes, and I am currently the vice president of marketing and public relations for Enough Is Enough, a national non-profit organization whose principle operating priority is making the Internet safe for children.

From March 1994 until July 1998, I served as the organization's communications and marketing director. In this capacity, I developed and managed Enough Is Enough's communications including the newsletter, direct mail, PSA and media relation's programs and was instrumental in the creation and design of the web site. Additionally, I worked in the area of public policy and have been the organization's key spokesperson on the issue of Internet safety for children.

I have highlighted below many of my efforts at Enough Is Enough on the issue of child safety in cyberspace.

I served in a leadership role regarding Enough Is Enough's efforts on the issue of computer pornography and child safety on the Internet. I was instrumental in the development of a three-pronged strategy to make the Internet safe for children through promoting a shared responsibility between the public, the technology community and the legal community.

Since 1995, I have given over 1000 media interviews on the issue of Internet safety for children. Broadcast television appearances on the issue include *Crossfire*, *Dateline*, *CBS This Morning*, *The View with Barbara Walters* and CBS, NBC, ABC, CNN, CNBC and Fox newscasts. Additionally, my views on this issue have been featured in print publications including *The Wall Street Journal*, *USA Today*, *The New York Times*, *The Los Angeles Times*, *The San Francisco Chronicle* and *The San Jose Mercury News*. I have given dozens of online demonstrations to print and broadcast journalists on the ease of access by children to online pornography.

I have spoken publicly in educational and professional forums across the country on the dangers of computer pornography and sexual predation and the importance of Internet safety for children.

I have provided factual information with respect to the online dangers to children of pornography and predator activity to members of Congress and their staff.

I represented Enough Is Enough on the steering committee for the Internet Online Summit: Focus on Children, in December of 1997. The Summit was a joint effort by a coalition of industry, education, government, law enforcement and nonprofit organizations working together to make the Internet safe for children. I served as co-chairperson of the Summit's education task force and co-chairperson of the Child Advocacy subcommittee. I developed and introduced an "ISP Pledge To Children" for consideration as a summit deliverable item. It was adopted in part and renamed the "Zero Tolerance Policy" against child pornography on the Internet. Vice President Al Gore and Attorney General Janet Reno announced the "Zero Tolerance Policy" as a summit deliverable item. Finally, I was asked to present a portion of the Summit's "America Links Up" public awareness campaign along with Secretary of Education Richard Riley and Jake Winebaum of The Walt Disney Company.

I am currently on the steering committee for the Summit's public awareness campaign, America Links Up: Kids Online Week scheduled for September 1998.

I have just completed my first book, Kids Online: Protecting Your Children in Cyberspace (Revell, 1998) to be released in September 1998. I have had editorials published on the subject of Internet safety for children in *USA Today*, *The Washington Times*, and *The Los Angeles Times*.

In 1980, I graduated magna cum laude from the University of South Carolina with a BS degree in Biology. I was also a member of the Phi Beta Kappa and Mortar Board honor and leadership societies.

The defendants in this case have asked me to render testimony on the types of, locations of, and ease of access to pornography available to minor children with unrestricted Internet access. At the trial, I may use a CD-ROM or diskette to demonstrate the ease of intentional or unintentional access to pornographic content by minor children on the Internet.

I am not being compensated for my time in this case.

I have not previously provided expert testimony in a court case

TESTIMONY

Every child in America deserves a safe, educational and rewarding online experience. The Internet offers tremendous benefits to children, and some very real dangers. Unfortunately, the worst types of pornography are invading our homes, libraries, and schools via the Internet. Child pornography, obscenity and harmful to minors content are easily and freely accessible to minor children who have unrestricted access to the Internet and online services.

Like the real world, the virtual cyberworld contains many sites with sexual, violent, and other content that are inappropriate for children. While inappropriate material also exists beyond the Internet, the unregulated nature of the Internet makes it more difficult to keep illegal and harmful material out of the hands of our children.

ONLINE PORNOGRAPHY

As illustrated by following reports, some of the-highest traffic in cyberspace is to pornographic sites:

According to the Washington Post, adult sites generate an estimated one billion dollars in revenue yearly.¹

"Adult" entertainment on the Internet is the third largest sector of sales, surpassed only by computer products and travel.²

Most ISPs provide public access to hundreds of Usenet newsgroups, which are specifically reserved, for posting explicit and extreme categories of pornography (i.e., alt.sex.snuff.cannibalsim, alt.sex.bestiality, alt.binaries.pictures.erotica.teens, etc.). All these are as freely accessible to an intrepid 10-year-old as to an adult.³

In its project "Innocent Images," FBI personnel acknowledged in 1997 that the Bureau has a database of at least 4,000 cases of child pornography being distributed online.⁴

In 1995, police arrested Robert Thomas, a pornographer operating an international computer bulletin board service (BBS) called "Amateur Action." They seized over 5,000 images featuring the exhibition of child genitals in addition to violent, bestial, hebephiliac, and other forms of hard-core pornography. Computer analysts confirmed over 2,000 cities around the world where these images had been downloaded.⁵

TYPES OF PORNOGRAPHY

Pornography can be thought of as all sexually explicit material intended primarily to arouse the reader, viewer, or listener. Each category of pornography has a specific legal definition established by the courts. The following types of pornography are accessible by any child with unrestricted Internet access:

Material Harmful to Minors

Material harmful to minors represents nudity or sex that has prurient appeal for minors, is offensive and unsuitable for minors, and lacks serious value for minors. Harmful to minors material is often referred to as soft-core pornography.

Obscenity

Obscenity is graphic material that is obsessed with sex and/or sexual violence, which is prurient, patently offensive, and lacking in serious value. It is often referred to as "hard-core" pornography and includes close-ups of graphic sex acts, penetration clearly visible, group sex, bestiality, torture, incest and excretory functions. There are federal and state obscenity laws that criminalize distribution of obscenity on the Internet, but they have not been vigorously enforced.

Child Pornography

Child pornography is material that visually depicts children (real as well as computer-generated) under the age of 18 engaged in actual or simulated sexual activity, including lewd exhibition of the genitals. Child pornography laws were recently amended to include computerized images or altered (morphed) pictures of children, and counterfeit or synthetic images generated by computer that appear to be of real minors or that were marketed or represented to be real child pornography.

CHILDREN'S ACCESS TO PORNOGRAPHY IN CYBERSPACE

Any child with unrestricted Internet access can view adult pornography, content prosecutable as obscene, and child pornography. Pornography, which is legally restricted to adults in the print and broadcast media is not currently restricted by a federal statute to minor children online. In addition, children navigating cyberspace have free and easy access to material prosecutable as obscene and child pornography, both of which are illegal for adults in the United States. The details are appalling...pictures of women having sex with dogs, horses, and snakes; graphic visuals of men engaged in sexual acts with children, and the rape, torture, and mutilation of women. Kids can be exposed to such content on the Usenet Newsgroups, the World Wide Web, in chat rooms and via e-mail.

For the purpose of this report, I will limit the scope of children's access to online pornography to the World Wide Web and Usenet newsgroups. Due to the nature of the cyberspace, the examples of Internet searches and web addresses may vary according to such factors as the choice of search engine and the calendar date.

THE WORLD WIDE WEB

Many commercial porn sites ask, "Are you 18?" If a curious child or teenager responds "yes" and clicks on "enter," free teaser images can appear on the screen for sample viewing before a credit card or adult password is requested. Some of the pornography commercially available on the Web is of the hard-core variety, and nudity and soft-core pornography are available as well. Child pornography and

paraphilic content such as bestiality are also offered by commercial web pornographers. Pornographic commercial web operators target their marketing, placing notices in Usenet Newsgroups while running ads and teasers that pop up on search directories such as Yahoo!

Children can access such pornography both intentionally and unintentionally.

Intentional Access

Sexual curiosity among children is one reason the adult community has traditionally accepted the responsibility to protect children from exposure to age-inappropriate content or activity. By typing in words such as "sex," "hard-core," "penthouse," "naked," into a search engine, curious kids can be linked to thousands of sexually explicit web sites. Additionally, searching for a specific web address such as "hustler.com." will directly link a child to the *Hustler Magazine* web site.

Example A: "sex" search

A deliberate search on "sex" yielded 9,120,490 documents matching a query via Alta Vista. Hot links to most of these commercial sites display free pictures depicting graphic sex acts, homosexual sex, group sex, paraphilic and hebephic pornography.

Example B: bestiality.com

A child can even access, both intentionally and unintentionally, free pictures of adults engaged in sexual activity with animals including fish, donkeys, horses and dogs at www.bestiality.com.

Example C: "The Torture Chamber"

A curious teenager can view free pictures of women being raped, tortured and bound at the "torture chamber" web site. The following welcome is found at this site, "Welcome to The Torture Chamber. We do not promote violence against women, we just want to make it possible for men to exercise their wildest fantasies. We are the leading bondage and sex crimes provider on the Internet..." (www.hiddenpix.com/torture/)

Example D: Child and or Teen Pornography

The following web sites contain free photographs of material prosecutable as child pornography. On July 17, 1998, <http://www.teenaction.com/> displayed the message, "Warning! Age of Innocence contains nude images of adolescent girls" followed by numerous photographs of nude girls. Also on July 17, <http://www.teengay.com/> displayed free images of teenage boys engaged in homosexual activity.

Unintentional Access

Protection of children should not depend solely on a child's self discipline. A reporter shared with me how her nine-year-old son did a search for Beanie Babies. While he found many links to Beanies, "Hot Cyber Babes!!" also appeared in the list. The constant need to say "no" conflicts with a child's natural curiosity. If a child, out of curiosity or carelessness, clicks on such links, he or she may be exposed to material that can never be erased from that child's mind.

Children can inadvertently access pornography on the Web in several ways:

1. *Key Word Search:*

Children using Internet search engines such as Yahoo or Web Crawler to locate innocent information will often find links to pornographic sites which display free and accessible "teaser" images. In an effort to increase traffic to their sites, pornographic Web site operators use popular, seemingly innocent terms. When children key in their favorite search terms, pornographic sites pop up along with the sites the children are searching for. Search engines don't distinguish between an adult hit and a child's hit.

Example E: "toy" search

An innocent search for "toys" can yield numerous links to child appropriate sites, but also to inappropriate sites such as "Horny Housewives and their Boy Toys" which posts numerous free pornographic images at <http://housewives.nudepictures.com/>

Example F: "boys" search

An innocent search on "boys" can lead to www.boys.com - which is a pornographic site featuring young males engaged in homosexual activity.

Example G: "watersports" search

Both adults and children may not be aware of the pornographic term for urination, "watersports". An Internet search by a child for "watersports" could expose that child to pornographic images depicting urination. On July 17, 1998, a "watersports" search on the Excite search engine yielded 7,853,638 query matches. One hundred percent of the first thirty search results were links to sexually explicit web sites including sites advertised as "watersports" and "teen" pornography.

II. "Stealth Sites"

Some pornographers deliberately disguise their content to drive Internet traffic to their commercial web sites as shown in the following three examples:

Example H: Mirror sites

A child searching the Web for information on the White House could locate the official White House site by knowing and typing in the correct URL, whitehouse.gov. However, if the child typed in whitehouse.com instead, even by mistake, a sexually explicit pornography site would appear.

Example I: Spelling errors

Due to a spelling error, a kid searching for "shareware" could be linked to sharware.com, a pornographic site offering free sexually explicit images.

Example J: Misuse of brand name

An innocent search on "cartoons" can bring up links to wholesome cartoons as well as sexually explicit cartoons depicting popular "Disney" cartoon characters at <http://www.cartoons.base.org>.

USENET NEWSGROUPS

Pornography found in the newsgroups is typically free of charge since Usenet newsgroups are primarily non-commercial. Child pornography, paraphilic pornography and obscenity have proliferated on Usenet in two primary ways. First, due to the free advertising possibilities,

commercial pornographers operating on the Web or through a commercial Bulletin Board Service (BBS) post content in Usenet newsgroups to advertise their services and entice people to subscribe. Second, Usenet newsgroups provide an avenue for pornography collectors to upload and post their collections in exchange for new material.

Pornography in the newsgroups can be found in two primary hierarchies: alt.sex and alt.pictures.binary.erotica. These hierarchies contain graphic images of obscenity and child pornography as well as stories, messages and requests for pornography. Such sexually explicit content can be both intentionally and unintentionally accessed by children through any Internet Service Provider offering a full newsgroup feed. The following are examples of free pornography images available to children accessing Usenet new groups:

Example K. A:\bat.jpg

A degradation image found in the alt.sex.bondage hierarchy depicting the sodomy of a bound female with a baseball bat.

A pornographic image depicting men urinating into the mouth of a woman who is also urinating. Many such images are found in the alt.sex.watersports hierarchy.

CONCLUSION

Due to the unregulated nature of the Internet, minor children with unrestricted Internet access can be exposed to sexually explicit content. In the history of telecommunications media in the United States, both legal and illegal sexually explicit content has not been so easily accessible by children with so few restrictions. Defending minor children from harmful pornography goes beyond questions regarding censorship to how society should behave responsibly in protecting the innocent minds and hearts of children. A shared responsibility between the public, the technology industry and the legal community is necessary to bring our nation's children safely and confidently into the important frontier of cyberspace.

ACKNOWLEDGEMENTS

Some of the information in my written testimony has been taken from my book, Kids Online: Protecting Your Children In Cyberspace (Revell, 1998) and from reports and materials I have previously prepared for Enough Is Enough.

ENDNOTES:

1. *Washington Post* quoting *Interactive Weekly*, 30 March 1997, p. C4.
2. John Simons, "The Webs Dirty Secret" *U.S. News & World Report*, 19 August 1996, 52.
3. Randall E. Stross, "The Cyber Vice Squad," *U.S. News & World Report*, 17 March 1997, 45.
4. Tod Lindberg, "Unmolested Molesters," *Weekly Standard*, April 14, 1997, 18.
5. Laura J. Lederer, *National Legislation on and International Trafficking in Child Pornography*, " 2d ed. (Minneapolis: Center on Speech, Equality, and Harm, University of Minnesota, 1997), 1.

APPENDIX B: WRITTEN MATERIAL SUBMITTED BY ORGANIZATIONS

Entries appear in alphabetical order by organization and are cross-referenced by alternative forms of the organization's name and by the name of the individual submitting the material in the INDEX at the back of this publication.

[NOTE: Documents submitted as paper copies have been scanned and reformatted, so the format may be different, but the content is as submitted, except that the Commission's address is omitted from incoming correspondence.]

1. Written Material from the American Family Association of New Jersey (Waretown, New Jersey) Submitted by Bob Kellow, State Director

Letter from Bob Kellow

December 2, 1998

To Whom It May Concern:

Judge Leonie Brinkema's decision concerning filtering pornography in the Loudoun County, VA library is a disaster. Although many people think pornography is harmless and there are no victims, that position is far off base. Women and children are the victims of pornography. Pornography addiction causes divorce because the woman becomes unable to provide sexual gratification to her mate. Children are molested and killed to satisfy the intense sexual desires generated by use of pornography. Two children were murdered right here in New Jersey a few years back, Amanda Wengert and Megan Kanka. The second one has become celebrated because her mother courageously lobbied for notification laws when perverts move into an area.

The problem with people like Judge Brinkema is that they think that there should be no limits on freedom. Freedom without limits is anarchy. It is obvious that pornography makes victims of children because they are defenseless and unchained (uncontrolled); pornography just increases the number of perverts who can prey on children.

It is our position that all computers in libraries should have filters. As a matter of fact, our organization is presently creating a porn-free Internet service. If those who control national libraries had good sense they would insist on porn-free screens for their clientele. Tell us why libraries should become porn shops. Libraries should be for research, education, entertainment, not for lascivious men licking their chops over some lewd picture.

Sincerely,
Bob Kellow

2. Written Material from Business Systems (Memphis, Tennessee) Submitted by John Simmons, President

Electronic Mail from John Simmons [jsimmons@eqhelp.com]

Date: November 30, 1998

Subject: Filtering Software

As a software consulting firm owner, I can assure you that filtering software can be effective without restricting legitimate use of the Internet.

I would support your efforts at effecting strong controls. There is little real danger of anyone suffering from too little nudity or going into 4-letter-word withdrawal on the Internet but there is ample documented evidence of those already suffering the consequences of Internet pornography. The system at present is vastly worse than any potential problems from even the least perfect filtering system.

John C. Simmons
President
Business Systems

**3. Written Material from the Center for Media Education (Washington, DC)
Submitted by Katharina Kopp**

Letter from Katharina Kopp

Center for Media Education

October 16, 1998

Dear Ms. Whiteleather:

I spoke to you yesterday regarding the Center for Media Education's (CME) participation in the upcoming meeting of the National Commission on Libraries and Information Science (NCLIS). We would very much like to be invited to represent CME's position on online privacy and children.

Founded in 1991, the Center for Media Education is a national nonprofit organization dedicated to creating a quality media culture for children, families and their communities. CME fosters telecommunications policymaking in the public interest through its research, advocacy, public education and outreach initiatives. The Center for Media Education has been documenting problems with online marketing and data collection practices directed at children since 1996. Through its reports and studies, CME has analyzed how children's commercial Web sites are using games, contests and offers of free merchandise to entice children to give up personal information about themselves and their families. Techniques used by such sites have included cartoon "product spokescharacters" who asked children for their email addresses, which were subsequently used to communicate with children after leaving the site.

In 1997, the FTC responded to a CME complaint by issuing a formal letter articulating some initial guidelines for restricting privacy and marketing abuses in children's Web sites. In partnership with the Consumer Federation of America (CFA), CME has been calling on the FTC to develop a more comprehensive set of enforceable privacy rules for protecting children online. The FTC released a report last June revealing that nearly 90 percent of the children's sites it surveyed collect personal information, while less than 10 percent of those sites provide for any parental control over the collection and/or use of that information. It was in response to that clear failure of industry self-regulation that the Children's Online Privacy Protection Act was introduced in Congress. In the past months the Center for Media Education has been at the center of the negotiations with industry and other involved groups to ensure that the Children's Online Privacy Protection Act offers meaningful privacy protection for children and their families.

We would appreciate the opportunity to discuss the issue of online privacy for children at your upcoming meeting.

Sincerely,

Katharina Kopp, Ph.D.
Senior Policy Analyst

Children's Advocates Call for National Privacy Policy to Protect Children Online

Center for Media Education

For Immediate Release
June 4, 1998

Contact: Jeff Chester
202-628-2620

**CHILDREN'S ADVOCATES CALL FOR NATIONAL PRIVACY POLICY TO
PROTECT CHILDREN ONLINE**

**GROUP SAYS FTC REPORT SHOULD SERVE AS WAKE-UP CALL TO
POLICYMAKERS**

Washington, D.C. The Center for Media Education (CME) called on the Congress and the Clinton Administration today to develop a new national policy for protecting the privacy of children and families in interactive media. CME cited the findings of the just-released Federal Trade Commission (FTC) study of online privacy as irrefutable evidence of the need for swift government action.

"Children going online today are at great risk of privacy invasion," warned Kathryn Montgomery, Ph.D., CME President. "As the FTC report clearly documents, the vast majority of children's web sites are gathering personal information from children, and there are very few safeguards in place to limit these widespread and egregious practices."

The study found that eighty-nine percent of children's sites collect personal information from children, and less than 10 percent of the sites provide for parental control over the collection and/or use of children's information. "These findings are very disturbing," commented Montgomery. "They show that self-regulation has not and will not protect the privacy rights of children and their families in the digital age," she said. "We need clear government rules about the online solicitation, collection, and distribution of personal information. These rules are needed now to guide the development of the new children's electronic media culture. Without them, we will see the emergence of an intrusive and harmful interactive marketplace where wholesale invasion of children's privacy is the norm."

"While some individual content providers have developed their own policies for responsible marketing to children," Montgomery noted, "the action of a handful of companies will not create a safe online environment for children. Only a national privacy policy will create a level playing field and ensure that all children are afforded adequate privacy protection."

CME's 1996 report, "Web of Deception," was the first document of abusive online marketing and data collection practices directed at children. The report showed how children's commercial Web sites were using games, contests and offers of free merchandise to entice children to give up personal information about themselves and their families. Techniques used by such sites included cartoon

“product spokescharacters” who asked children for their e-mail addresses, which were subsequently used to communicate with children after leaving the site.

Last summer, the FTC responded to a CME complaint by issuing a formal letter articulating some initial guidelines for restricting privacy and marketing abuses in children’s Web sites. In partnership with the Consumer Federation of America (CFA), CME has been calling on the FTC to develop a more comprehensive set of enforceable privacy rules for protecting children online. The proposed policies would prohibit the collection of personally-identifiable information (e.g., name, address, e-mail, etc.) from children online unless absolutely necessary, and then only with verifiable prior parental consent. The following principles would apply:

- As a general rule, marketers should not collect personally-identifiable information from children 13 and under. Children and their parents have a right to anonymity and autonomy.
- If such information is necessary, then marketers bear the burden of responsibility for justifying the collection and use of personally-identifiable information from children.
- Marketers must clearly and prominently display a privacy statement which describes what information (personally-identifiable as well as aggregate and anonymous) they collect and how it is used.
- If a marketer can justify the collection of personally-identifiable information about children, that information may be collected only if prior valid parental consent has been obtained.
- The collected information may only be used for the purposes that have been disclosed.
- Marketers must not use forms of enticement such as spokescharacters or the lure of free merchandise to solicit personally-identifiable information from children.
- Parents must have rights of access, to correction, and to prevention of the future use of the collected information

CME has also been working with a broad coalition of privacy and consumer groups which is calling for a comprehensive national privacy policy to protect adults as well as children. “The FTC report provides strong evidence that the problems associated with online data collections from children are part and parcel of a much larger set of disturbing marketing practices which threaten everyone’s privacy in the new interactive media,” explained Montgomery.

* * * * *

Founded in 1991, CME is a public interest group dedicated to ensuring the electronic media system serves the needs of children and families. Further information about CME, including the proposed CME/CFA privacy guidelines, can be found at its website: www.cme.org/cme; or call 202-628-2620.

Backgrounder: Protecting Children's Online Privacy

Center for Media Education

For Immediate Release
May 28, 1998

Contact: Jeff Chester
202-628-2620

BACKGROUND: PROTECTING CHILDREN'S ONLINE PRIVACY

Reporters/Editors: The Federal Trade Commission will soon announce the results of its first major "sweep" of the Internet, designed to identify problems related to privacy online. One of

the major focuses of the FTC inquiry is on commercial web sites targeting children. The FTC sweep will be submitted as part of a report that agency is to provide Congress in June. The Clinton Administration has also announced plans to hold a major White House Summit on Electronic Privacy in June which will also address electronic commerce issues related to children. The Center for Media Education and the Consumer Federation of America have jointly asked the FTC to develop safeguards to protect children's privacy.

Washington, D.C.: The Center for Media Education has been documenting problems with online marketing and data collection practices directed at children since 1996. Through its reports and studies, CME has analyzed how children's commercial Web sites are using games, contests and offers of free merchandise to entice children to give up personal information about themselves and their families. Techniques used by such sites have included cartoon "product spokescharacters" who asked children for their email addresses, which were subsequently used to communicate with children after leaving the site.

Last summer, the FTC responded to a CME complaint by issuing a formal letter articulating some initial guidelines for restricting privacy and marketing abuses in children's Web sites. In partnership with the Consumer Federation of America (CFA), CME has been calling on the FTC to develop a more comprehensive set of enforceable privacy rules for protecting children online.

On May 14, 1998 CME announced it has asked the White House to support a new federal policy designed to ensure that children's privacy is protected when they are online. The group said that the proposed industry self-regulatory approach advocated by the Clinton Administration was insufficient, and would have to be accompanied by new Federal Trade Commission (FTC) rules and/or legislation.

"Self-regulation will not protect the privacy rights of children and their families in the digital age," warned Dr. Kathryn C. Montgomery, CME President. "We need clear government rules about the online solicitation, collection, and distribution of personal information. These rules are needed now to guide the development of the new children's electronic media culture. Without them, we will see the emergence of an intrusive and harmful interactive marketplace where wholesale invasion of children's privacy is the norm."

Over the last several weeks, the group has been meeting with Clinton Administration officials, industry leaders, child advocates and consumer groups to define the policies that will protect children's privacy on the Internet. The proposed policies would prohibit the collection of personally identifiable information (e.g. name, address, email, etc.) from children online unless absolutely necessary, and then only with verifiable prior parental consent. The proposed policies include:

- 1) As a general rule, marketers should not collect personally identifiable information from children 13 and under. Children and their parents have a right to anonymity and autonomy.
- 2) If such information is necessary, then marketers must bear the burden of responsibility for justifying the collection and use of *personally identifiable information from children*.

- 3) Marketers must clearly and prominently display a privacy statement which describes what information (personally identifiable as well as aggregate and anonymous) they collect and how it is used.
- 4) If a marketer can justify the collection of personally identifiable information about children, that information may be collected only if prior valid parental consent has been obtained.
- 5) The collected information may only be used for the purposes that have been disclosed.
- 6) Marketers must not use forms of enticement such as spokescharacters of the lure of free merchandise to solicit personally identifiable information from children.
- 7) Parents must have rights to access, to correction and the right to prevent the future use of the collected information.

Founded in 1991, CME is a public interest group dedicated to ensuring the electronic media system serves the needs of children and families. Further information about CME, including the proposed CME/CFA privacy guidelines, can be found at its Web site: www.cme.org/cme; or call 202-628 2620.

Child Advocacy Group Calls on Clinton Administration to Adopt National Privacy Policy for Protecting Children and Families Online

Center for Media Education

For Immediate Release
May 14, 1998

Contact: Jeff Chester
202-628-2620

**CHILD ADVOCACY GROUP CALLS ON CLINTON ADMINISTRATION TO ADOPT
NATIONAL PRIVACY POLICY FOR PROTECTING CHILDREN AND FAMILIES ONLINE**

Washington, D.C. The Center for Media Education (CME) announced today that it has asked the White House to support a new federal policy designed to ensure that children's privacy is protected when they are online. The group told the Clinton Administration that the proposed industry self-regulatory approach was insufficient, and would have to be accompanied by a new Federal Trade Commission (FTC) rule and/or legislation.

"Self-regulation will not protect the privacy rights of children and their families in the digital age," warned Dr. Kathryn C. Montgomery, CME President. "We need clear government rules about the online solicitation, collection, and distribution of personal information. These rules are needed now to guide the development of the new children's electronic media culture. Without them, we will see the emergence of an intrusive and harmful interactive marketplace where wholesale invasion of children's privacy is the norm."

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Guidelines and Policy Principles for the Collection and Tracking of Information from Children on the Global Information Infrastructure and Interactive Media

CENTER FOR MEDIA EDUCATION

Guidelines and Policy Principles for the Collection and Tracking of Information from Children on the Global Information Infrastructure and Interactive Media

The Center for Media Education/Consumer Federation of America

April 1998

A. STATEMENT OF PURPOSE

These guidelines are intended to protect children, 13 and under, from deceptive, unfair, and harmful practices in the Global Information Infrastructure¹ and in other interactive media.

These guidelines address marketing practices which include, but are not limited to, practices that:

- promote, sell or deliver goods and services through direct sales approaches, brand awareness-building campaigns, and other similar marketing strategies;
- perform market research;
- foster the promotion, sale or delivery of goods and services through the sale, rental, compilation, or exchange of lists;
- add or delete individual children, members of their families, other household members, and other persons the child knows, to lists used for marketing purposes.

Commercial marketing is achieved through information collection and tracking. Information may be collected through surveys, registration forms, questionnaires, chat rooms, clubs, contests, and other means. Information may be tracked, analyzed or audited (hereinafter "tracked") by using navigational tools and other methods. These tools reveal information such as pages visited, length of stay, images and information downloaded, referring URL,² content viewed, and operating system used.

These guidelines apply to all persons³ who collect or track information (hereinafter "information collectors/trackers") including, but not limited to, Web masters, on-line content providers, Internet Service Providers, Web measurement companies, and commercial on-line service providers.

These guidelines apply to the collection and tracking of both personally identifiable information and information that is aggregate and anonymous.

Personally identifiable information includes:

- any information that allows for the identity of individual children, their families, household members or other individuals the child knows to be determined, including any information that is linked to such identifying information. This identifying information includes, but is not limited to, a child's name, address, E-mail address, telephone number, and social security number, or other unique identifier;
- other information such as physical description, psychological description, health, school, date of birth, family income, and information regarding a child's likes, dislikes, habits, and opinions when used in conjunction with identifying information as described above;
 - any information collected from a child about that child's family, household members or other individuals the child knows when used in conjunction with identifying information as described above.

Aggregate and/or anonymous information includes:

- data that provide demographic characterizations and information that cannot be traced to an individual child, her family, household members or other individuals the child knows; or
- any information about the likes, dislikes, habits, opinions and preferences that may not be traced to a particular child, family, household members, or other individuals the child knows.

These guidelines will be strengthened or expanded in light of new practices, problems, and developments.

CME/CFA strongly recommend the use and development of technology that enables children to protect their identity and limit the disclosure of their personal information. This may include techniques for anonymous payment and surfing, cookie cutters, and encryption. These techniques should become more user-friendly for children.

These guidelines are intended to balance children's interest in receiving diverse information with the interest in protecting children from deceptive, unfair, and harmful commercial marketing practices that take advantage of children's unique vulnerabilities.

The guidelines outlined below must be enforced. A information collector/tracker must be accountable for complying with these measures. There must be adequate sanctions against the data collector/tracker and remedies in cases of non-compliance.

B. INFORMATION COLLECTION AND TRACKING GUIDELINES

1. Collection Limitation:

Children and their parents have a right to anonymity and autonomy. This includes the right to control information collected from children and communications sent directly to children. Thus there should be limits to the collection of personal data. Data collectors may not collect personal information from

children, unless it is relevant, necessary and socially acceptable. The burden is on the data collector to justify and to make publicly known when and why data collection may be relevant, necessary, and socially acceptable.⁴

2. Disclosure:

Each collector/tracker must display prominently a privacy statement which must be part of a comprehensive policy to protect personal information.⁵

a. Information collectors/trackers must disclose all information necessary to permit a child/parent to make an informed decision, including, but not limited to:

- i) A statement explaining why the collection of personal information may be relevant, necessary, and socially acceptable.
- ii) A description of what information is being collected or tracked.

Collectors/trackers must disclose whether the information they are collecting is personally identifiable information,⁶ such as an individual's name, street address, phone number, social security number; or aggregate and anonymous information,⁷ such as age category, gender, product preferences and hobbies. Collectors/tracker' must also disclose what information they are collecting/tracking through navigational software including information pertaining to sites visited, length of stay, and the images downloaded.

- iii) An explanation of how they collect information, i.e., the mechanism(s) through which the information is collected and/or tracked.

For example, collectors/tracker' must disclose whether information is collected through on-screen surveys, questionnaires, contests, monitoring of electronic postcard labels, and sweepstakes entries; or through server-based navigational data tracking and browser files such as cookies.

- iv) A summary of why information is collected and how the information will be used.

For example, collectors/trackers must disclose whether the information will be used to promote products through E-mail messages, to refine internal marketing strategies, or for re-sale to interested third parties. The collector/tracker must also disclose whether the information will be used to re-contact a child on-line or through other media including, but not limited to phone, fax, and postal mail. This must be disclosed if the collector/tracker plans to re-contact the child or if the collector/tracker plans to rent, sell or otherwise release the information to a third party who may re-contact the child. The information provided must be detailed and specific. It is not sufficient to state that the information will be used for 'marketing purposes.'

- v) Identification of all other persons who will have access to the information and their commercial interest in the information.
- vi) Identification of who is collecting/tracking the information, their relationship to the information and where they are physically located.

No persons other than those originally identified in the disclosure notice may be provided with this information until a new disclosure notice is issued and parental consent is obtained again.

- vii) Notice that valid parental consent must be obtained prior to the collection of personally identifiable information.
- viii) Notice of the rights of redress and the procedure to correct previously collected personally identifiable information. This notice must include information about a contact person at the collector's/tracker's organization with telephone, fax, e-mail, and mailing address.
- ix) Notice of the process for preventing further use of personally identifiable information previously collected.
- x) Notice of the process by which confidentiality, integrity, and quality of collected information is ensured.

b. Effective disclosure also requires that the disclosure notice described above be easy to understand, compelling, and prominently displayed from the perspective of a child and/or parent where applicable.

- i) Privacy statements or the links to those statements should be prominently displayed on the homepage and wherever data is collected.
- ii) Language must be audience appropriate.

For example, the notice regarding the need for parental consent must be appropriate for children. The same level of vocabulary that a company uses to describe a game or other activity on its Web site must be used when disclosing information practices.

Disclosure notices for parents should be easily comprehensible and sufficiently detailed.

- iii) The language must be easily read, and if possible and where children are addressed, also audible in the on-line medium.

The privacy statement should be user-friendly print which by its small size, placement, or other visual characteristics is likely to substantially affect the legibility or clarity of the disclosure should not be used. A site that places its disclosure notice behind an unidentified hyperlink at the bottom of the page also is not in compliance with this requirement. Also, it should not take undue time to download a privacy statement, irrespective of the user's hardware, so as to discourage the user from downloading the information.

- iv) Information must not diminish the value of privacy so as to entice the child to give out personal information. In addition, a claim regarding disclosure must not be contradicted, in practice, elsewhere on the site.

Many children are incapable of comprehending facetious or mixed messages. For example, if a young visitor to a site is told to "ignore the fine print and click here to get to the good stuff" or a disclosure notice is marked "boring adult area" the child might be disinclined to continue reading.

3. Parental Consent:

a) Information collectors/trackers must obtain prior valid parental consent whenever personally identifiable information is collected from children. Consent must be obtained at points of promotion, points of transaction, and all other points where information is collected or tracked. Consent is only valid for the information practices described in the disclosure. Parental consent must be received from a person authorized to consent on the child's behalf, such as a parent or legal guardian.

To obtain valid parental consent, the following steps must be followed:

- i) It must be made clear to the child that parental consent must be obtained before proceeding and the parent must receive complete disclosure as described above;
- ii) Access to those areas of the site where information is collected or tracked must be conditioned on receipt of valid parental consent; and
- iii) The burden is on the collector/tracker to obtain valid parental consent, which may be obtained:
 - in writing, received via postal mail; or
 - through effective electronic mechanism(s) once developed.⁸

b) Aggregate and anonymous information may be collected only if a data collector/tracker can justify that the collection of that information from children is relevant, necessary, and socially acceptable. The collector/tracker must give an explanation to this effect in the disclosure. The collection may only take place where the collection and/or tracking practices are not deceptive and are fully and effectively disclosed.

4. Use Specification/Use Limitation

Personal data should not be disclosed, made available or otherwise used for purposes other than specified. The use purposes must be specified in the disclosure and the subsequent use limited to those specified purposes. Each time the use purpose changes, parents need to be notified and parental consent must be obtained prior to the new uses of the collected information.

5. Data Quality and Security

Personal data should be protected by reasonable security safeguards against such risks as loss or unauthorized access, destruction, use, modification or disclosure of data.

6. Parental Participation: Access, Correction and Prevention of Future Use

a) When requested from a parent or legal guardian, a data collector/tracker must provide the information it has collected from or about the child: The information relating to the child shall be provided to the parent or legal guardian,

- within a reasonable time at no charge;
- in a reasonable manner; and
- in a form that is readily intelligible.

b) In addition, the parent or legal guardian must be able to challenge data relating to the child and to have the data deleted, changed, and/or prevent further use at the option of parent or legal guardian.

Footnotes

1. The Global Information Infrastructure is the connection of thousands of computer networks that enables individuals, governments, businesses, and educational institutions to communicate with each other and gives them access to databases around the world. This includes, but is not limited to, the Internet, the World Wide Web, and proprietary on-line services.
2. Some sites have the ability to know which site a computer user has just visited. The previous site is called the “referring URL.”
3. Persons herein includes individuals and incorporated groups.
4. This and other principles stated here reflect some of the guidelines discussed in *Toward an Information Bill of Rights and Responsibilities*, Firestone, C., Schement, J.R., eds., Washington, DC: The Aspen Institute, 1995.
5. Such a policy statement should reflect adherence to comprehensive fair information practices as outlined here or, for example, in the 1980 OECD Privacy Guidelines. Some of the principles stated here reflect the principles, as outlined in the Guidelines on the Protection of Privacy and Transborder Flows of Personnel Data, Paris, France: Organization for Economic Co-Operation and Development, 1980.
6. See discussion *infra* Section A.
7. 6. ID.
8. Future electronic mechanisms might include digital signature systems or personal privacy software applications. However, to ensure that valid parental consent is obtained, digital signature systems would have to accurately identify the computer user to assure that only a qualified parent or guardian consented to the disclosure and use of the child’s information. Similarly, to constitute valid consent, personal privacy software applications must have a default to “no release of personal information.” This “opt-in” approach would require parents to reconfigure the default if they want their children’s personal information to be released.

For more information contact:

Center for Media Education
1511 K Street, NW, Suite 518
Washington, DC 20005
202-628 2620
www.cme.org/cme

Consumer Federation of America
1424 16th Street, NW, Suite 604
Washington, DC 20036
202-387 6121

4. **Written Material from the Citizens for Community Values (Lansing, Illinois)
Submitted by Kathy Valente, Vice President**

Facsimile Transmission from Kathy Valente

Citizens for Community Values

Seeking to enhance the quality of community

ATTN: The National Commission on Library and Information Science

FROM: Kathy Valente, Vice President
DATE: December 2, 1998
RE: Blocking minor's access to pornography

The move to block minor's access to pornography on the Internet is overwhelmingly favored by parents, educators and clear thinking librarians. It is our opinion that this should not be a debate. Historically we have protected children from materials deemed harmful, and most states have laws prohibiting minors from accessing such materials. The Internet is no different.

Much of the foggy rationalizing that the First Amendment has no boundaries and that children have as many rights as adults is being touted by those who hail Alfred Kinsey's fraudulent and criminal research of the 40's. His so-called "scientific research" included pedophiles and incarcerated child molesters to "conclude" that all children are sexual from birth and therefore should have no sexual restrictions. It is my opinion that this fraudulent research which launched the 'sexual revolution' and eliminated or weakened most sex crime laws, has also clouded the thinking of the American Library Association, once a highly regarded institution. (Kinsey is cited as an expert on an ALA recommended Internet site for Young Adults, *Go Ask Alice*, which answers questions on bestiality.)

I have spoken to a librarian who works part-time in a library that has offered unfiltered Internet access to all patrons, including children. He is appalled that most terminals are being used to access porn sites (his words), even by 12-yr.-olds. I asked him to put his observations in writing. He was happy to, he told me, since he had made his concerns known to the board as well. After not hearing from him for a time, I stopped by to find out that the director told him it would be a conflict of interest for him to write down his observations, even though they were made at another library. The director is opposed to filters.

I can honestly say that in speaking to hundreds of parents, I have yet to find even one who favors their children obtaining unfiltered access to the Internet. Those who initially have no opinion, I find out, have no idea of what the Internet offers. They are horrified when they find their children would be able to see sex acts, in addition to female genital mutilations, real-time rapes of children, bestiality, and group sex!

What will our society be like when the next generation learns about human sexuality from what the Internet teaches? What kind of young men will be the future fathers and husbands of our daughters? What does the Internet teach young girls about themselves and their value?

Please be part of the solution to this huge problem and protect our children from vile and obscene material when parents can't be there. Please support filters on Internet terminals that minors have access to.

P.O. Box 727 * Lansing, IL 60438 * Voice 708-802-0037 * Fax 708-418-8563
Website: www.safeplace.net/ccv/ * e-mail: kathvalente@juno.org

5. **Written Material from the Citizens for the Protection of Children and the Medina County Chapter of the Christian Coalition (Medina, Ohio) Submitted by Michelle Yezerki**

Electronic Mail from Michelle Yezerki [cpc@ohio.net]

Date: December 7, 1998

Subject: Library Policies, Internet Porn, etc.

I am a co-founder of Citizens for the Protection of Children. It would be impossible to tell you in this message about all of our involvement in library issues and how they relate to state statutes on "harmful to minors," our involvement in legislation last year at the Ohio state house, and our involvement nationwide on this issue. I plan to submit a notebook to you by mail, and I hope to make your December 10th deadline. I will also include an audio tape of a few radio shows we have done on this topic. We strongly support any national and state efforts to combat the obscene and dangerous materials available to our children online on public library computer terminals.

Michelle Yezerki
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Medina, OH 44256

cpc@ohio.net
phone 330-722-9015
fax: 330-725-3757

Please Be Aware...

It is just a matter of time, in the very near future, when cameras and microphones will become standard equipment purchased with computers. The potential can be great. A classroom from the U.S. will be able to talk to and see students in another classroom in a foreign country. The Internet can be such a wonderful educational tool. But look at what else can happen (see attached).²¹ Dr. Chris Williams, a computer consultant, went into a chat room in the middle of the afternoon using the name "Sally." Within minutes men has contacted Sally. Within a matter of a few seconds, one such man aided with a camera, began to undress. In the picture you will see the man removing his shirt. When he began to remove his pants, Dr. Williams clicked out of the site. You can also see their on-line chat. It is a known fact that pedophiles today are using the Internet, especially chat rooms, to meet kids. Schools, libraries, and parents must be made aware of the potential problems.

21. The attachment was submitted for the record, but not included in this publication.

Kids and Libraries, Medina County Library District



**Kids
&
Libraries**



*Medina County
District Library
725 0588*

What You Should Know

Kids and curiosity go together. Children and teenagers have an unquenchable thirst for knowledge that usually pleases but sometimes overwhelms their parents. Why? How? The questions never seem to end.

Fortunately, there are libraries and librarians to help answer these unending questions, send kids on wondrous adventures and provide them with the resources they need to learn and grow. Parents can relax knowing it is a friendly place for all families.

With so much available, how can you help your family make the best use of the library?

Here are answers to some commonly asked questions, along with some suggestions for helping children become lifelong learners and library users.

What is the role of libraries and librarians in serving children?

Libraries are family-oriented public institutions charged with making a broad selection of materials available for everyone, including children and teenagers.

Our libraries have special areas for children and teens with materials that appeal to various ages and interests.

How do librarians select their collection?

The Medina County District Library has selection and collection development policies that are used to determine what materials to purchase for the library. Criteria include popular demand, ensuring diversity in the collection, available space and budget. These policies are adopted by the library board of trustees and carried out by the library staff.

Choosing materials is a process of seeking a broad range of viewpoints and subject matter. Therefore, while the library has thousands of items families want, like and need, we also have materials that some families may find inappropriate for them.

Because an item is part of the collection does not mean the library endorses or promotes it. The library is simply fulfilling its mission of providing information from all points of view.

How are libraries different from theaters, book and video stores, which often have restrictions for children and teens?

As public institutions, libraries cannot discriminate based on age, sex, race or any other characteristic. Movie theaters, video stores and book stores are privately-owned businesses that can choose not to admit, rent, or sell certain materials to anyone under the age of 18.

Libraries must meet the diverse needs of everyone in their communities. They cannot overrule the rights and responsibilities of individuals by deciding who does or does not have access to library

materials. The Medina County District Library does provide parents the opportunity to restrict access to materials for their minor children. Parents wishing to limit their minor child's access to either video, audio-visual or print materials may do so by filling out a Parental Limited Access form.

All MCDL locations provide movie review and ratings books for parents to use when guiding their children's library use.

Who decides what my children can borrow from the library?

Decisions about what materials are suitable for children should be made by the people who know them best—their parents or guardians.

As citizens in our community, children have the right to seek and receive the information that they choose. It is the right and responsibility of parents to guide their family's library use while allowing other parents to do the same.

Librarians are happy to provide suggestions and guidance to parents and youngsters any time. The Medina County District Library staff are very happy to help all library users find materials that are appropriate for that individual.

What about my children and the Internet?

As the fastest growing source of information in the world, the Internet is an exciting useful resource in gathering current data. As in utilizing other library resources, it is the right and responsibility of parents to guide their family's use of library materials, despite its format.

Library staff are available to help parents use the Internet with their children. There is also a Child's Pledge for On-Line Safety flyer available to parents to use with their children.

What is the Library Bill or Rights?

The Library Bill of Rights is a policy adopted by the American Library Association to guide librarians in serving their communities or schools. This policy, based on the First Amendment, protects the rights of all library users to choose for themselves what they wish to read, listen to and view.

Under the First Amendment, children and teens have the same rights as adults to select the materials they wish to read, listen to or view. The Library Bill of Rights reminds libraries of their responsibilities to serve all the public, regardless of age. It has been voluntarily adopted by our library board to ensure that we serve everyone in our community equally and fairly.

How can parents help children and teens make the best use of the library?

1. Allow your kids to explore the library. Children and teens are naturally attracted to materials intended for them. They are generally not attracted to materials that are more advanced for their reading or maturity levels. By asking questions and learning to find their own answers, young people learn to think for themselves, to compare and contrast differing opinions and to analyze what they see and hear.

2. Ask your librarian for suggestions about materials that are appropriate for your children's ages, maturity levels, knowledge and interests. Read books and brochures that review materials for children and teens. Review those materials yourself to decide if they are what you think your children may like

or need. While librarians and resources lists can provide guidance, you know your children and family needs best.

3. Discuss family rules regarding library use with your children. If you are concerned they will not respect your wishes, it is your responsibility to visit the library with them.
4. When you cannot go along, show an interest in what your children bring home from the library. Have a special shelf for library materials and familiarize yourself with what your children bring home. Ask them to share what they found at the library. Praise their independence and responsibility in caring for library materials and returning them on time.
5. If you feel an item is inappropriate for your children, express your views and provide guidance. When you return the material ask the librarian to help you find something else from among the many choices available.
6. Many young people seek information from libraries about matters that they are embarrassed or afraid to ask an adult. A factual library book, unlike hearsay from friends, can ease their fears or even keep them safe from harm.
7. Be a role model for library use. Nothing teaches children better than seeing you use and enjoy the wide range of materials available.
8. Establish a family routine of going to the library regularly. Visiting the library once a week or once a month encourages young people to use the library both for learning and pleasure, and teaches them how to find what they need—an invaluable skill for school and a lifetime of learning.
9. Get to know your librarians. Their expertise can help you and your children get the most out of libraries.
10. Ask for the item you want. If the library does not already own it, the librarian can probably locate similar materials, borrow it from another library or add it to the collection.

For more information about how your library can meet your family's needs, talk to your librarian.

Kids and Libraries, Definitely NOT an Official Library Publication by Chris Burns

Imagine If 'Truth in Advertising Laws' Applied to the Library ...



Kids & Libraries

Definitely NOT an Official Library Publication!

All *italicized* statements contained in this flyer are taken directly from official Medina County District Library printed materials (“Kids & Libraries” and “Library Resources Policy”) or American Library Association (ALA) policy statements, which are available on the Internet at www.ala.org. Underlines have been added by this author for emphasis. All other information in this flyer is based on actual events, statements and actions of library officials, and library policies in effect as of January 1997. Since the library and ALA believe in totally unfettered freedom of speech, even regarding sexually explicit, obscene, and violent materials, I trust they will take this harmless little parody of their flyer in good humor.

A Message to Concerned Parents

Children and teenagers have an unquenchable thirst for knowledge. Fortunately, there are libraries and librarians to help answer those unending questions, send kids on wondrous adventures, and provide them with the resources they need to learn and grow. Parents can relax knowing it is a friendly place for all families ...

What is the role of libraries and librarians in serving children?

Libraries are family oriented public institutions charged with making a broad selection of materials available for everyone, including children and teenagers ...

Allow your kids to explore the library. Children and teens are naturally attracted to materials intended for them. They are generally not attracted to materials that are more advanced for their reading or maturity levels ...

Mom and Dad, that's about all you need to know! Oh—you heard stories on the TV and radio about upset parents? Well, you know—it's that same right-wing extremist crowd that tried to impose their prudish views on everyone by trying to ban To Kill a Mockingbird and Catcher in the Rye. We're just carrying out the library mission of fighting the evils of censorship. Remember how George Washington and all those guys fought for the right to freedom of speech, so everyone can publish and read about absolutely anything, no matter how obscene or disgusting?

What's that? You heard it's a felony to give kids obscene materials? Maybe this will help explain.

How are libraries different from theaters, book and video stores, which often have restrictions for children and teens?

As public institutions, libraries cannot discriminate based on age, sex, race, or any other characteristic. Movie theaters, video stores and book stores are privately-owned businesses that can choose not to admit, rent, or sell certain materials to anyone under the age of 18.

So you see, our hands are tied. Anyway, the rest of this flyer is really just for the kiddies, so there's no need to waste any more of your precious time ... Just remember to vote for the upcoming library tax levy, and then make sure you pay those taxes on time so we'll have all the money we need to provide your kids with even more materials we think they should have a right to see.

Hi, Kids! Welcome to the NEW Library!

OK, now that your parents are gone, do you have any questions?

Yeah. So tell us, why do all those XXX-bookstores and theaters choose to turn away paying customers just because they're under 18?

Hey, you kids are sharp! Hardly any adults ever notice that our last answer was totally false and misleading! I guess they mistakenly assume that librarians, who are supposedly experts in looking up information, should know what the Ohio Revised Code (ORC) says about distributing obscenity to kids - after all, it's right there on our own Internet terminals at www.avv.com/orc. Yes, it is a felony for anyone other than a parent or guardian to give obscene (sexually explicit) materials to kids under age 18 (ORC Sec. 2907.01 & 2907.31). Yes, private XXX-businesses don't "choose" to exclude kids, they are absolutely required to do so by law! And certainly there's no law forcing us to give kids pornographic materials. But we think we've found a loophole - if we claim it's for a bona fide educational purpose, that gives us an excuse to give you anything we want! So to us - EVERYTHING is educational!

Really? You know how us kids are naturally curious about sex ... what kind of stuff do you have that we can read and check out?

Gosh, there's way too much to list here, but some books kids like you have already checked out include It's Perfectly Normal (written especially for younger kids; it even has helpful pictures and instructions on how to masturbate - after all, "it's perfectly normal!"), The New Joy of Gay Sex (check out the section on "Daddy-Son Fantasies" - remember the library is a family-oriented place!), and Howard Stern's and Madonna's sex-filled books, just to name a few.

But what if my parents ask you what I've checked out on my library card? One of your flyers says "*We encourage parents to take an active role in monitoring their children's selections.*" They'd kill me, or worse yet ground me, if I ever took home one of those books!!!

Don't worry! Kids can relax knowing that this library won't ever tell your parents about anything you have checked out! Remember, we follow ALA guidelines, which means your parents have to get a subpoena or court order to see your records. Even then, our policy is to resist that attempt and fight it out in court! (See: www.ala.org/ICONN/ICONN-website/policy.html)

Well, what if the librarian or clerk doesn't want to give me my porno books?

Yes, we know what you're referring to and we have to apologize. Last year one uppity clerk dared to follow her own religious views and defied our orders to give underage kids whatever obscene materials they requested. We gave her an ultimatum - either give kids whatever they want, quit, or be fired. It worked - she quit. Remember our official local library policy: *No attempt will be made by library staff to monitor, control, or restrict anyone's access to the range of information available.* This obediently follows the ALA policy: *The American Library Association opposes all attempts to restrict access to library services, materials, and facilities based on the age of library users.*

But even if you're too ashamed to face a librarian for this stuff—there's a totally anonymous way to get tons of hot stuff—the Internet!

But I thought you refused to let one father use a library Internet computer to show the Medina County Sheriff how kids could access porn?

Yeah, that was Tuesday morning, Jan. 14th. You have to remember this guy wanted to have TV crews there so Medina parents would find out what was really on the Internet. Fortunately for us, the father came into the library the day before to warn Director Bob Smith what he was going to do. That gave us time to try and come up with some bogus excuse to prohibit him from using a computer (if you're curious, we claimed he neglected to fill out a meeting room request form in advance—even though he just wanted to use an open computer, and even though none of our meeting rooms has a computer!). So although we violated our own policy (*A person's right to use a library should not be denied or*

abridged because of origin, age, background, or views.), it was for a worthy cause—to protect our freedom to provide sexually explicit materials to inquiring, impressionable young minds.

All right! So tell me more about the Internet.

For starters, one of the best things is that most of your parents know diddly squat about computers or the Internet. We've repeatedly told news media and concerned parents that there really isn't much bad stuff out there, and that you practically have to be a computer expert to find it—and they believe it! But just ask any of your junior or senior high school friends—if you can type just three letters (**SEX**, or even better for you pre-literate kids, **XXX**) and can click a mouse button, you can access tens of thousands of sexually explicit sites, pictures and stories.

But wait - doesn't the Internet block kids from most adult sites? And don't most of those porno Web sites require you to use a credit card to pay first before looking?

C'mon, kids, you've been listening too much to our responses to the media that were intended for your parents to hear. It's true that most porno sites in the U.S. have a “warning” screen saying not to proceed if you're under 18 or 21. To most curious kids, though, this is really just a sign that “now you've found the good stuff!” All you have to do is click “OK” and you're in. There's no way to verify your age. In fact, there's one site with a password screen that shows you an erotic picture even if you type a random password! And remember, the Internet is worldwide—so people in the red light district of Amsterdam or the child-porn businesses of Thailand can do whatever they want on the Internet regardless of U.S. laws or customs.

As for needing a credit card, it's true that most porno sites are businesses trying to sell their stuff. However, because there is so much competition on the Internet, to attract enough people to their sites they offer LOTS of totally free previews. One site called Sex Roulette has almost 300 different sexually explicit uncensored pictures. Others have dozens of ultra-hardcore, totally uncensored pictures of nude women tied up, group sex acts, gay sex, lesbian sex, and for you pet lovers, bestiality! One local newspaper writer who saw this free Internet stuff available to kids said you would have to look long and hard in an adult book store to find stuff this hardcore!

And don't forget, you can also use the attached library printers for making black and white pictures, or bring your own PC disks to save any pictures to take home and share with friends. And if you have your own library card, you can dial into the Clevelnet system from home and save these pictures to disk at home.

I'm more into stories. What's available on the Internet to read?

There's lots of fascinating material on the Internet to help build your reading skills. Although direct Usenet newsgroup access is not available, you can still get most all the USENET text off the Web via search engines. One interesting recent story from the alt.sadistic newsgroup, “The Shoplifter,” gives a compelling first-person account of a man who methodically plans out the abduction of a 12-year old girl, followed by a step-by-step account of a series of incredibly cruel sexual tortures. It ends with her being his willing sex partner who helps him lure other kids (ages 5-17) to be tortured and killed. Or maybe you're into Aryan Nation stories of how black men purposely rape white girls so they'll have black children. You name it—there's some anonymous person in the world who's probably posted it to the Internet! We believe it *is in the public interest for publishers and librarians to make available the widest diversity of views and expressions, including those which are unorthodox or unpopular with the majority.*

And don't forget the online Web “chat” lines, where you can send and receive instantaneous messages from totally anonymous strangers anywhere in the world! Above all, remember to have fun exploring!

This flyer represents my own personal opinions and interpretation of events, and is not necessarily those of the library or of any other individuals or groups. To the best of my knowledge all statements of policy and fact in this flyer are true (although I took artistic liberties with the conversational-style comments from the “library” and the “kids”).

My immediate goals in alerting the community to what's really going on with the library are threefold:

- 1) To pressure the Library into following the full intent of Ohio Law, which declares it a felony for anyone other than a parent or guardian to give obscene materials to children. A high school dropout working as a gas station clerk is required by law to know what is obscene and can't be given to children—why can't we demand as much from highly educated librarians? If the library won't keep obscene materials in a separate location out of the view and reach of children, then get rid of all the obscene materials in the library. If the current library staff cannot or will not do this, then let's replace them with people who share at least some of the community's values and who will try to follow the law. Call County Prosecutor Holman (723-9536) and demand action if the library continues to irresponsibly ignore the law.
- 2) To demand that the Medina Library quit the American Library Association (ALA), who's extremist anti-censorship (pro-pornography) policies are responsible for this mess. Other libraries, including the Cincinnati library system, have quit. Why should even a penny of our tax money go to support this organization or to help promote its anti-family agenda? For example, a Jan 14th news release boasts the ALA is the lead plaintiff in opposing a New York law that makes it a crime to distribute materials harmful to children over a communications network (www.ala.org/alanow/aliasues.html). Should you and I have to pay taxes to even indirectly support an organization like the ALA that fights to make this world a more dangerous place for our kids?
- 3) To urge library officials to do the right thing by publicly apologizing to the librarian (L.P.) who was forced to quit her job rather than do what she believed (and I now believe) was both immoral and illegal. I admire her courage to take a stand in refusing to give obscene materials to children without their parents' knowledge or approval. She should also be offered her old job back along with back pay.

Chris Williams, Ph.D. Brunswick, Ohio January 1997
Internet E-mail: ConcernedParents@POBoxes.com

Also Submitted for the Record

Also submitted for the record, but not reproduced in this publication is the following item:

- Notebook entitled Internet Computers In Public Libraries, Materials That Are "Obscene" And "Harmful To Minors," submitted by the Citizens for the Protection of Children & Medina County, OH Chapter of the Christian Coalition. Content Tabs: New Ohio Law; Exploitation; ALA & ACLU; Sites & Filters; Porn Incidents; OPLIN Study; Resolutions; Letters to Library Board and Prosecutors; Newspaper Coverage; and Miscellaneous. Inserts: Audio Tape labeled WGAR - Porn in the Libraries; Memorandum to Medina County District Library Board and Staff from Michelle Yezerski, Citizens for the Protection of Children, re American

Library Association (ALA) sites - YALSA sites, dated December 15, 1997; Flyer given to many Medina residents; and Please Be Aware...

6. Written Material from Citizens for Quality Community Standards (Vancouver, Washington) Submitted by Margaret Tweet

Facsimile Transmission from Margaret Tweet

TO: The National Commission on Library and Information Science

FROM: Margaret Tweet
Citizens for Quality Community Standards
16420 SE McGillivray, #103-540
Vancouver, WA 98683
Fax: 360-833-2014

Areas of concern:

Illegal obscenity, child porn, and youth exposed to porn and harm in public libraries

Following is a compilation of complaints recorded by patrons or staff in the Vancouver, WA and Portland, OR areas. They are repeated and show some emerging problems with unfiltered Internet use combined with privacy screens which Ft. Vancouver, WA and Multnomah County, OR use. This is the most inaccurate part of Judge Brinkema's opinion in Loudoun County about how to respond to youth porn access in libraries.

Having observed the screens in use, and having read all of the complaints repeatedly, it is apparent that privacy screens in public libraries are ineffective.

Privacy Screens:

- Encourage Youth To View Porn
- Facilitate Access To Illegal Child Porn
- Don't Work, Which Is The Reason For Many Complaints
- Possibly Facilitate Hacking As Well

The libraries provide Internet access which enables patrons of all ages to view and print porn or illegal porn. Naturally the policy states that illegal activity is prohibited, but use is not monitored visually due to the privacy screens and the policy of the library: Don't ask, don't tell. In the Ft. Vancouver system use is not monitored electronically either.

This is in part due to the fact the library recently moved the terminals where possible to out of the way locations to reduce the number of incidents where passersby saw unwanted porn. In fact, the most recent action of the board is to create special viewing booths to make these peep shows even more private, in the public library. This will make it even easier for illegal activities to occur in the public library.

Currently, passersby, especially children, since it is eye level for them, can see the screen at various angles as they walk by in spite of "privacy" screens. Patrons think they have privacy, so youth look up porn and at least one adult has been reported to access child porn.

Users sign up for the Internet by name, and don't know if a card is required in either system. No photo ID is required. The number of reports reflects only the times a concerned adult patron observed the

abuse and took the time to formally comment. Librarians who are there all the time do not usually report incidents, since it is the policy of the library to provide open access to patrons of any age. The staff does record incidents that are brought to their attention by patrons. The actual number of incidents is likely to be much higher.

A) Minors obtain porn at the library, which is against the law in Oregon. According to some library policies, such as Clackamas County OR, this law is included in the library Internet policy which prohibits porn viewing by any patrons, since minors are present. (Oregon Revised Statute 167.080) At least one Oregon prosecutor stated that this law could be enforced in the public library according to a reporter. Librarians state it is a child's right, in spite of the law.

In Gilroy, CA the *Harmful to Minors* law has been key to stopping the distribution of pornography to youth in libraries. In Washington it is illegal for porn outlets to sell to youth. Why should the government dispense it free to minors at taxpayer expense? In most states, it is expressly prohibited by law. Why shouldn't the government be subject to the laws of the country? Why is the government in the porn business at all? Don't we have to spend enough resources on law enforcement and helping the victims of sexual assault without contributing to increased violence?

B) Juvenile offenders obtain porn without parental consent and against the conditions of their probation. Who knows if adult offenders are.

Even at the request of the caseworker, the library would not deny access to a convicted juvenile offender. Ft. Vancouver, WA 1-23-98.

Another report in Florida concerns a juvenile offender, whose guardian located him in a library where he could violate conditions of his parole. Police were called, and he was found with a 10-year-old boy in the library.

Why do juvenile offenders go to the library to get porn?

- 1) It's illegal anywhere else
- 2) It's free
- 3) Guardians don't know it is available at public libraries
- 4) It is easy, and the library permits it
- 5) Easy access to youth?

In the case of adult offenders, without their mothers to go and find them, and case workers closely watching, they have much more freedom. [They] have had:

- 1) Porn handed to young boys without parents there by older males

Under the current system, no way of knowing. With porn conveniently located onsite and free, this provides a setting for offenders to seek out children. I have observed that many kids use the library without parents after school, especially if the library is close to a school. Teens most often are there without parents. Many parents are unaware the Internet in the library has easily accessible porn. Most think it is illegal, so they don't imagine it is possible in the library. Law enforcement is rarely called when the problem is observed. Libraries do not report to authorities usually since complaint forms aren't always read at the time of the incident, but put in a comment box.

C) Child porn is illegal and can be accessed via the Internet, which was reported in Multnomah County, OR. From a patron complaint form, 9-8-98

"Patron using computer to secure business for child pornography. "

- How many times has this occurred?
- Who audits for this? Wouldn't it be too late if after the fact?
- Would library staff report it to the police?
- How would they know if privacy screens were in use?

Child porn access in other libraries nationwide has also been documented. One case in which the patron was arrested in Lakewood, OH, '97 -- in that case it was the librarian who turned in the violation. No privacy screens in use there.

The above problems are serious because they are illegal and contribute to sex abuse. To post a notice that use of computers for illegal activities is prohibited is not enough. Do stores post no shoplifting signs and forget it? No, they employ staff to visually monitor and mirror and electronic monitoring to insure valuable merchandise is not stolen. Children are precious.

Filtering is simply a technological aid to preventing access to unwanted materials. It is not a crime. Distributing porn to youth is a crime. Please consider the real life application of the suggestions you receive. Why not porn free public institutions? Porn has been available in print for years, but never before have libraries argued that it belongs in the library collection. It doesn't.

Isn't this the same issue as forcing taxpayers to support chocolate covered strip dancers? The Supreme Court said no. The decency requirement held. The public must not be forced to fund pornography, much of which is illegal.

The porn peddlers profit from every click, regardless of location. They have a vested interest in the promotion of pornography. They and their ACLU lawyers have as much business outlining public policy as does the tobacco industry. It is up to Congress to insure financial interests do not override the public welfare.

If you intend to force porn funding on taxpayers, please consider a conscientious objector provision so that these groups of people can just say ... NO!!!!

- Women and children who are the victims of sexual assault
- Parents who do not expose their children to pornography
- Grandparents opposed to pornography
- Ethnic groups to whom modesty is an important part of the culture, Middle Eastern cultures, religious groups who oppose pornography, plain decent folks
- Those who treat the victims of sexual abuse
- Women who object to rape and incest depicted as entertainment in the library
- Law enforcement who are responsible for public safety
- Young adults who value respect toward their fellow man

Notes on the Harm of Porn to Minors and Society

*Excerpts from a Letter to Ann Landers in August, 1998:

Psychotherapists, too, have just begun to realize the extent of the problems that have developed because of the Internet. I have been treating sexual violence victims and perpetrators for 13 years. I **have not treated a single case of sexual violence that did not involve pornography**. Most often it is video pornography. In almost every case of sibling incest that I have treated, the pornography involved was soft-core pornography in magazines.

Invariably the perpetrators are not aware of the damage that has been done. Their level of denial is massive. I have found it is more difficult for a pornography addict to get into remission than a cocaine addict. Also, pornography addicts are more likely to relapse than cocaine addicts.

Thank you for helping to spread the word. Once again, you are at the forefront of issues about which society is ignorant. "

Mary Anne Layden, Ph.D., director of education, U of Pennsylvania Health System, Philadelphia

*Psychotherapist Lang Taylor, sex offender treatment expert from Tacoma, WA says that **of over 100 sex offenders sentenced to community-based treatment, all had been influenced by some form of pornography**: People do what they have learned to do ... pornography seriously misrepresents women and the female role.

*Michael Comte, who evaluates sex offenders in the State of WA found that **67% of juvenile sex offenders had been exposed to explicit pornographic videos**.

*"A child exploited for pornography is damaged forever...**in my work I have found that pornography is often used by child molesters.**" Gary Benton, Family Anger Management Project

*A study in WA state of prepubescent children who molest younger children by a case worker found:

For a number of months I kept track of the number of **children referred to our office with allegations of sexually aggressive and inappropriate behavior who have been provided access to explicit pornography**. Over a 6 month period, I discovered 10 out of 12 of these youths, ages 11 and younger, has such access, which was provided by their parents, step-parents, extended family or perpetrators who had exploited them.

*Almost one in four adolescent girls in the state of Washington report some form of sexual abuse according to researchers and reported in the Columbian, November 1997. Office of Crime Victims Advocacy shows: **27% of girls and 16% of boys will be sexually abused by the time they are 18**. Washington State recently invested \$70,000 on an ad campaign to warn teens about sexual assault, and its consequences.

***81% of population of sexual offenders studied had significant involvement with pornography**. It was the strongest factor in common among them. Dr. Joseph Davis, lecture on "Homicide and Sexual Abuse"

*In a population of 41 extremely violent sexual offenders who showed no remorse or guilt, **interest in and use of pornographic material as a model to act out was the top statistical factor that tied all these men together, the dominant common characteristic**. FBI Criminologist Roy Hazelwood, FBI Behavioral Science Research, Lecture on "Sexual Sadism."

Above lectures [from the] Conference of Forensic Examiners in San Diego, December 11, 1997 sponsored by American College of Forensic Examiners, 2750 E. Sunshine, Springfield, MO 65804

*29% of all rapes happened to girls under the age of 11. Another 32% occurred between ages of 11 and 17. "Rape in America" benchmark study, 1992 by Dean Kilpatrick.

*Almost half of all sex offenders are under 18. (1991 FBI Uniform Crime Report)

*Teen slays girl, 7, AP story - September 1998:

Las Vegas - **Jeremy Strohmeyer pleaded guilty to murder and sexual assault for killing a 7 year old girl** in a casino restroom stall. The Prosecution contended Strohmeyer is a killer who hoarded pornography. Defense portrayed the youth as troubled, father in prison, and biological mother in a mental hospital.

*Vancouver, WA, 1998 Columbian:

Police arrested 46-year old sex offender after he allegedly approached three boys and molested one of them. Last September, Hatfield was arrested after he allegedly **invited teenage boys to a tree house that contained a bed and pornographic literature**. He had at least three, maybe more, sex-related incidents with young children in his past.

*Spring, 1998, Columbian, local paper, Vancouver, WA:

A Longview, WA specialist in treating sex offenders wrote to the judge that any community where Kruger lives "has the best of reasons to fear for their children's safety." Conditions of parole:

- No drugs
- No Polaroid cameras
- No pornography
- No contact with minors or going where children congregate
- The judge said, "You know and I know you'll violate (the conditions)."

Suggested reading:

"Pornography's Effects on Adults and Children" by Dr. Victor Cline, Ph.D., University of California at Berkeley; psychotherapist specializing in family/marital counseling and sexual addictions. Author/editor of numerous scientific articles and books, including "Where do you draw the line? Explorations in Media, Violence, Pornography, and Censorship," has identified a pattern of:

- addiction
- escalation in need for increasingly violent and sexually shocking material
- desensitization to gross and shocking material
- tendency to act out, imitate pornography

Newspaper stories where porn is mentioned in association with child abuse:

*Portland OR - January, 1998 - Oregonian

A fifth grade teacher for the past 16 years, arrested on charges he fondled two young boys younger than 14 in his home over 2-1/2 year period. **He gave the boys pornographic magazines** in exchange for chores according to the mother of the boys.

*Portland, OR, 1998 – Oregonian:

A federal judge Monday sentenced a former gymnastics teacher for videotaping and photographing naked teenage girls. Waage, 34, videotaped and photographed girls 12-17. He also persuaded them to pose nude. The investigation began after a girl Waage knew from gymnastics accused him of rape. **Officials found boxes of explicit photographs.**

*Portland, OR (AP story in Columbian).

Wile is one of about 250 high-risk sex offenders living unsupervised outside prison around Oregon. More than 6,300 other less-serious sex offenders live in the state. A recent study estimated that **only 70% of offenders are registered**. Sex offenders may crave anonymity to commit new crimes.

*Portland, OR, 1998, Oregonian:

Suspected child molester indicted on more than 50 felony sex-related charges involving two girls under 12. Child predators groom their victims from an early age to gain their trust and keep them quiet (police said).

*Seattle, WA, 8-17-98, Columbian:

Former Boeing engineer serving time in CA for sexually assaulting a teenage girl he contacted over the Internet has been accused of the same thing in King County. He was grooming at least a dozen young women to participate in sex acts.

*1985 - Clark County case 85-1-00322-5:

Clark Hazen was convicted of murder in the first degree. **He had rented and viewed pornographic videos, then shortly thereafter went to the home of the two victims, and raped the female. It appeared he was motivated by the video in his crime.** The murders followed the rape.

*Vancouver- Mill Plain

Fred Meyer mid 1980's attempted rape in store restroom. The same man, several weeks later, kidnapped a youngster, about 3 years old, from a Fred Meyer store, but the child was rescued by store security. At the home of the man, police found it was loaded with pornography. He is still in prison.

Vancouver, WA

Complaint Log Summary - From Ft. Vancouver Regional Library System incident reports (summarized):

6-28-96 - Boy & girl 10 & 12 viewing porn, older man points it out to the mother. She defends her son.

U.S. National Commission on Libraries and Information Science

3-97 - Boy 10 -12 years old viewing porn. Patron comment: "I object to public funds going to this poor use. Can anything be done?"

4-22-97 - Ridgefield- boy, approximately 13 years old looking at pictures of naked women. Patron comment: "Children should not be allowed to view naked women or men on Internet at a public library. This is a very poor use of library funds and very offensive."

5-28-97 - White Salmon. Boy, approximately, 14 viewing porn. Woman and her young son walked past and were exposed to it. The boy at the computer said he was just hitting the back button & it came up. Patron: Asked about policy for minors on the Internet. Unhappy. Library: "I explained that we have no control over what is on the Internet, that we do not restrict access, and that we believe it is the parent's responsibility, not ours to monitor their children."

5-29-97- Vancouver Main Branch. Two males printed out hard-core pornography off the Internet and were distributing to other patrons. Her 11-year-old son brought it home. Patron: Very unhappy that the library does not monitor what people can look at on the Internet.

6-6-97 - White Salmon – 12-year-old boy viewing porn. Patron: "Does the library approve of this? Doesn't a child need a permission slip? Does the library approve of this?" Library: "Ft. Vancouver Regional Library does not approve or disapprove."

6-1 8-97 - Cascade Park, no incident report, but a news article in the Columbian. Teen ogling cybersmut. 3-year-old girl walks by and looks at the screen. Patron: She has no qualms about people looking at smut all they want at home, but she would like to see public access to it restricted. "I was shocked, and I don't get shocked easily. It's too open and there are too many young people in the library." Library, Candace Morgan, Chair of the Freedom to Read Foundation of the ALA: "The courts say that you can't limit someone's First Amendment rights if someone sees something they find offensive." And kids enjoy the same First Amendment rights adults do. Morgan says some people are aware of the law's tenuous position, but many also believe kids can't look at porn because commercial vendors, such as mini-marts and newsstands, restrict the sale of porn magazines and material to people 18 years old and up. In reality, that's not the law in action, rather a restriction they enforce as private entities, she says. The computers are so popular that patrons must sign up on waiting lists to take their turn, she says.

6-27-97 - Vancouver Main Branch. Several teen boys printing out Internet porn. Patron: Mom with a 14-year-old son. Wished to be present at the next board meeting to express her concerns about porn on the Internet to the board. Library: "I discussed our library board policy, the Internet privacy screens, and how we use the Internet to answer reference questions. (Patron did not go to the meeting, the staff did not forward the complaint to the board.)

7-1 0-97 - Boy 14 who has committed a sex offense. Mother feels he uses the Internet for stimulation. She has seen what he has printed. She wants him to have no access at any branch. Father is ill, and mother works full time and cannot know where he is every minute.

7-1 0-97 - Vancouver main. Two machines dedicated to porn viewing today at 1:30 PM. Children are exposed to this garbage. Patron was upset by what kids view on Internet, specifically porn. Patron: "What about blocking these web sites? If there is no law prohibiting this in an open public place, isn't allowing it to be hanging right out there in the open sending a message to little children? No wonder the nation is in such a mess!" Older man. As a former bus driver, he is trained to watch out for kids. He perceives it as a threat to kids. Library: We discussed various filtering software and its

drawbacks. Not in loco parentis. New privacy screens from ALA on the way. Other patrons should not be looking at another patron's screen.

7-10-96 - Stations side by side. Boy, about 10, viewing porn, commenting aloud to friends. Patron: Older man registers complaint. Library: "He has the right to look up what he wants, and others have the right to be offended."

7-1 7-97 - Patron exiting screen and porn pops onto screen. Library: Bookmarks may have created the problem. Library tries to delete bookmarks to manage the situation.

8-29-97 – Boy, 14, uses Internet to get porn. He is on probation and was in jail this summer. Mother was especially upset since he had gotten a book from University of Montana that had pictures of naked children & adults. She returned it. He is a junior high school student, and both parents work. Library: Agreed to cancel the card.

10-18-97 - White Salmon. Boy printed porn on the Internet. Patron: Mother realized her responsibility as a parent, but thought that it was inappropriate material for kids to get at the library. Other patron joins - uncomfortable with porn being easily accessible to children. Library: I explained our policies and talked about censorship.

10-21-97 - 7:30 PM - Girl at other Internet terminal was in adult chat room. Patron: School teacher - notified the desk Library: Different than school. We don't interfere. Patron: Would library interfere if an adult were interfering with a child? Library: Of course. Can't interfere with the Internet though.

11-5-97 – Evening. Two preteen boys printed out porn from the Internet. One motioned a patron's 6-year-old daughter who was at the checkout with her mom to come over. He gave her a porn printout of a scantily clad woman with bare breasts in an inviting position. She returned with the picture to show it to her mom.

1 2-97 Washougal - Boy & girl 12 - 14 surfing Internet for chat and sexually explicit material while commenting aloud. Patron (Who was there researching the new adult business ordinances in the city): "Isn't that illegal to give minors porn? It is for adult bookstores." Library: Rebukes patron for going over to look at what was on the screen. Patron: They were invading my privacy with their comments. Library: Censorship. Patron: What about illegal child pornography? What steps do you take to prevent that? Library: Comment form provided. Requested filtering software.

1-23-98 - White Salmon. Vancouver Juvenile Rehabilitation Counselor came to library with juvenile client. He had been accessing pornography. Counselor requested the library not to allow the teen Internet access. Library: Library staff cannot police who uses the Internet.

2-10-98 - Person called and said a teacher is being harassed by a student via his Hot mail account from FVR Library Internet. (She said students are not allowed to use Hot mail at PJH.) Library: Because of confidentiality, can give out no information of patrons to know if a certain patron was here at a given time. Patron seemed to want us to stop the patron from using Internet (or Hot Mail). Matter was referred to the police by PJH.

2-25-98 – Goldendale -irate mother whose daughter, age 10, had been shown the Playboy homepage by a friend on the Internet. Declared she would not allow her daughter in the library anymore and that she believed it to be a crime to show a minor pornography.

2-25-98. After several prior incidents of sperm being found by staff in the restroom on the floor after a particular set of brothers have been using the Internet, I approached one of the patrons, asked him to

my office and told him that we had seen a pattern of sperm and his Internet use. After examining his hands for an extended period of time, I said that ejaculation was an inappropriate activity in the library. Patron denied such activity.

3-2-98 - Young teen male - Someone opened several sessions of a porno site on Internet terminal #2. Patron using the terminal didn't know how to get rid of these sessions. I had to close down each session to remove them. Another patron, a young teen was sitting by this terminal watching and smiling.

3-9-98 – Woodland - Patron's 3 children comment on a fellow student who had been surfing porno sites on the library Internet terminal prior to their using it. (Pornographic persons engaging in oral sex.) Library: Explained the policy.

3-9-98 - Battle Ground - Patron called to say privacy screen on the Internet does not work. She and her children walk by it and see things they do not want to see. She has reduced her library time in half and friends are choosing not to come into the library ever. They would not support funding for a larger library because of Internet policy that allows children to view anything. She said it is so hard to hear people working on the desk at the library saying that it is not their responsibility to monitor what kids are doing on the Internet. That seems so awful to her.

3-12-98 - White Salmon - Female patron very embarrassed. She had been on the Internet yesterday on Martha Stewart's Home Page and when she tried to go to a site, pornography would flash up. She said some kids had been on before her and was concerned about youth viewing pornography. She had overheard kids at the local youth center talking about pictures they had seen on the Internet at the library. She asked about filters, and I explained our policy.

3-15-98 - Vancouver Community Library - A woman with her daughter on PAL could see the Internet screen from there. Someone was looking at something she considered porn and she felt the patron at the Internet was too young to be looking at that. Library: We do not stand as parents. The patron at the terminal was not causing a disturbance, so he was not violating rules of patron behavior. Patron: Wanted library to find the boy's parents. Library: This would be interference.

3-24-98 - Cascade Park - Mother browsing in Adult fiction complained that a minor was viewing pornography. Library: Spoke to the minor and reminded him to be judicious about what he brought up on the screen. Referred patron to head office.

9-21-98 - Vancouver Mall - Irate patron demanded to know if son had been on Internet. She wanted to know if his name was on the sheet. Library: Explained about the law, can't divulge such information; people don't always sign up under real name. This mother has called before with similar results.

Town Hall - One group of at-risk youth who used to go to the library no longer do after some members of the group were found to be accessing porn on the Internet. One staff who quit their job rather than provide pornography to minors. "Although I enjoy my job and am told I do it well, I feel I have no choice but to resign due to my religious moral beliefs where providing pornography or sexually explicit materials to minors is concerned." 1993

5-17-98 in the KOMO Town Hall, another Washington librarian reported quitting rather than providing pornography to a 14 year old patron who requested access to it via the Internet.

Multnomah Public Library, Portland Oregon - Porn left on screens and tables, some staff and patrons strongly dislike. Porn users hog the terminals for long periods of time.

Oregon Revised Statute 167.080 Displaying Obscene materials to minors - prohibited.

10-18-96 – Midland - Two boys on the Internet looking at nude photos of women-kind in porno magazines. Librarian: If they know how to work it, it's their privilege. Patron: "Underage kids? 11-13? Come on! We are to provide them with wholesome reading to advance their minds. This really concerns me."

3-7-97-Midland - "I have frequented your Midland branch during evening hours, 7-8:00 PM, and am disturbed by the number of school-age children using the Internet to look at pornography and other inappropriate sites. Also printing pornographic pictures. I don't think the public library needs to be a source for this kind of activity." Patron said she didn't want to support a library that provided porn.

7-21-98 - Vancouver Community Library Patron Comments RE: Internet. As children are among your most loyal patrons, I suggest you develop a concrete policy forbidding pornography viewing (block it out!) on the Internet. As a government service interested in literacy of children, this is a must to maintain your fine reputation. An alternative approach might be to block porn on readily available Internet terminals where children might walk by (as mine did today and were exposed, much to my dismay) and have one Internet terminal closed to protect your sensitive public. This is a wonderful library -- let's not sully it!

Here are some highlights from the citizen who called the police, written by library staff, which were part of the records.

7-22-98 - Library: Woman was upset about material being viewed by a man at the Internet and the fact she could easily see what he was viewing, and that there were minor children close to him that could also have seen the materials. She was quite disturbed by the openness of this man's selections and is deeply troubled by situations where children can see sexually explicit materials. "The patron has consulted with the Vancouver Police who apparently agreed with her that the library may have a liability for contributing to the delinquency of minors by having a situation where they could be exposed to pornography, even if it is passive exposure. Patron relayed that the police said they have been waiting for someone to register a complaint, that quite possibly this is a crime. She indicated that they are checking into the matter and are to get back to her in the next couple of days. "She was considering legal action. I told her that someone from the Director's Council would get back to her to let her know what we as a District have been advised relative to our liability for minor's viewing of materials that are not otherwise available to them."

8-6-98 - Vancouver Mall - Patron called and asked if she could find out if her son was signed up for the Internet. She said her son is not supposed to use the Internet. She stated that her son who is 15 looks up pornography on the net. She also may have mentioned that he had been convicted of something and was on probation.

5-16-97 – Midland - "As a library patron and a mother, I am deeply disturbed that we are allowing our youth to search the Internet and find the exotic strip. Pornography is something that can destroy our children and their future. Surely we can block this or monitor it better. Our money goes to the library and it seems there could be a way to protect the children better. Right now we've placed a loaded gun in their hands with no supervision. Read "A Way to Escape" by Neil Anderson. He brings out the devastation this problem brings.

5-30-97 - Main Library - Letter re: non-appropriate use of a monitor by a teenager. "Parade of nude women on the screen. It seemed very inappropriate to me that a teenager would be using library

monitors for this purpose." Librarian: Privacy screen is on. His use is appropriate for the hour. Censorship. Patron: No legal cigarettes, alcohol, or voting; yet porn appropriate for a teenager? It seems a gross misuse of public funds to tie up one of the few monitors for the purpose he was using it.

6-3-97 "I feel pornography on the computers in the children's area is unacceptable let alone any computer in the library! It should be removed immediately."

6-1 3-97 "Don't censor what I or my daughter may read. Some authoritarian nitwit who wanted to force his view upon the entirety of the population was complaining to the librarian about the availability of adult materials on the Internet and teenagers access. It is between the adolescent and their parents what they view."

6-1 6-97 "As a tax payer and Portland citizen, I am appalled that the decision was made to have unlimited access to all programs on the Internet. Pornography access is wrong. We are responsible to teach good, not evil."

7-2-97 "Why does the library allow access to pornography via the Internet? I am a long time library supporter, but will not be in the future if this persists."

8-11-97 "Dump the unlimited access since not all parts of the Internet are appropriate for all age groups. Put some restrictions on so kids and teens can't access porno without adult permission."

8-27-97 "My minor child came home with porn from your library. There is a lock out code. It is against the law to supply porn to minors. Do something."

9-6-97 Central - "I appreciate the issue of censorship, but I was with my daughter (5 years) searching for books for myself and waiting to get on the Internet. The terminal we were waiting to use was in use by a man viewing photographs of people engaging in oral sex! Is this OK? Yikes."

11-xx-97 Central - "My children were on Internet without a privacy screen. A man was viewing porn next to them."

2-3-98 Phone call - Caller wanted her disagreement with Ginnie's position recorded.

2-11-98 - "Would you want your child or young teenager to see sex on the web or be able to meet new people on the chat line?"

2-25-98 Capitol - "I observed a 10-12-year old boy watching a pornographic Internet site." Library: We don't restrict access to material here. You shouldn't be looking over someone's shoulder. Patron: "Certainly the policy in the library does not allow children to view such materials?" Central - "I recently became aware of the fact that full access to the Internet is available in the children's library. This means access to any web sites intended to adult only (pornography). Please advise why no screening is provided for those adult-only web sites."

9-8-98 "Patron using computer to secure business for child pornography."

10-5-98 "I would like you to filter kids from getting into sexual things on the Internet."

Call of concern on September 24, 1998.

7. Written Material from the Couples for Christ Ministry Submitted by Julie Julian, Technical Support

Electronic Mail from Julie Julian [jjulian@CFCMinistryu.org]

Date: December 2, 1998

Subject: Internet Filtering Service

I believe EVERY public school with computers that have Internet access needs to have a filtering service provided. This protects our children from the unwanted solicitations as well as protects them from the undesirable web sites that are available on the Internet. I will not allow my son or daughters access to computers at school when they do Internet projects that do not provide a filtering service. We personally use Integrity Online Filtering Service on our home computer and we have not had one problem with the service at all. Nothing has been blocked when my son was researching a legitimate subject.

Julie
Tech Support

8. Written Material from Curiosity for Kids (Chicago, Illinois) Submitted by Patricia Lindsay, Executive Director

Letter from Patricia Lindsay

December 9, 1998

Dear Mr. Willard:

Thank you for the opportunity to submit written testimony for the hearing on "Kids and The Internet: The Promise and The Perils."

You will find seven pages of written testimony attached.

As executive director of *Curiosity for Kids*, I have worked hard to make *Curiosity's FreeZone* one of the safest sites on the Web for kids. I appreciate the opportunity to become involved in a hearing on such an important subject.

I would love to stay involved in the activities of your commission. Please feel free to contact me in the future if you identify a situation where my knowledge and experience would be helpful. I can be reached by phone at 312-705-3826 or by e-mail at trish@curiosity.com.

Sincerely,

Patricia Lindsay
Executive Director
Curiosity for Kids

Written Testimony for NCLIS Hearing

With a membership to her local library, 10-year-old Susie Q. has the world at her fingertips. How else could she research Rhode Island for her geography class, explore Africa on a virtual safari, chat with new friends from Australia and wish her favorite cousin in Idaho a happy birthday, all within minutes? Only the Internet provides such extraordinary opportunities for our children.

Without question the Internet offers kids benefits unimagined a decade ago. However, with that advantage comes a new generation of risk. The benefits of the Internet cannot be denied; nor can the potential dangers of the Internet be ignored.

At *Curiosity's FreeZone*, we believe kids deserve to benefit from the Internet without having to fear for their safety. Since its creation in 1995, *FreeZone* has operated on the belief that the best way for Web sites to protect kids is to institute full, live monitoring of all interactive elements.

This document presents *Curiosity's FreeZone* as a model. It is intended to provide deeper understanding of how an online community can and does enhance the lives of kids while keeping them safe.

CURIOSITY'S FREEZONE: A RECOGNIZED MODEL FOR SAFETY

Curiosity's FreeZone leads the industry in kids online safety. From its inception, *FreeZone* has employed carefully screened, specially trained adults to monitor all interactive elements of the site. In 1998, several organizations recognized *Curiosity's FreeZone* as an industry leader in online safety initiatives.

- The Children's Advertising Review Unit and the Federal Trade Commission are both using *FreeZone's* privacy statement as the model for other kid-oriented Web sites.
- America Links Up -- a coalition that includes AOL, AT&T, Disney, Microsoft, Time Warner and the U.S. Department of Education and was founded, as a result of Vice President Gore's call to promote online safety and highlight Internet benefits -- also adopted *FreeZone's* privacy statement.
- *FreeZone* is one of four kids sites honored with a Best of the Web award by Cyberangels, the online arm of the Guardian Angels, which was recently honored with a President's Service Award.
- Jupiter Communications and Home PC rated *FreeZone* as a top 10 kids Web site.

FreeZone's recognition is not limited to government and industry. Parents and teachers across the country also agree that *FreeZone* is the best and safest place for kids to interact.

"I am always happily surprised when I run across a child responsible site such as yours. My appreciation and commendations to you and your staff for hosting a site with enjoyable content for children, and for the effort put forth to include safety information and security measures," said Roxanne Lamorandier, a *FreeZone* member's parent.

The response to *Curiosity's FreeZone*, which currently registers almost seven million page views each month from kids, parents and teachers, demonstrates the faith families place in it.

MORE THAN IDLE CHATTER

A misperception exists that chat offers only entertainment value; chat's true benefits to kids are often overlooked. Live monitoring allows kids to take full advantage of chat by providing them boundaries and trusted advisors. Following are a few of those benefits.

Think Fast!

Chat hones kids' reading and writing skills. During chat, sentences flow across the screen quickly. Kids automatically formulate thoughts and translate them quickly and clearly into words.

Who are You?

During chats, kids often experiment with different personalities and behaviors. Before gaining access to *FreeZone* chats, kids must register with a user name, such as Sabrina220. Kids can register for more than one user name, which allows them to exit and re-enter chats at will, adopting different user names. This flexibility allows them to try out variations of their personalities in a cloud of anonymity, something they are unable to do at school. During chats, kids face each other on a level playing field. For example, kids that may have disabilities, which are visually apparent, are able to interact without the weight of their disability during chat.

A Sense of Belonging

Curiosity's FreeZone is an online community in the truest sense of the word. Frequent chatters are well known by their user names. Many kids look to Internet chats for a reliable, comfortable way to interact and explore socially with their peers.

Dedicated members contribute to every level of the site, building the sense of a real community. Kids write stories as junior reporters, create their own home pages, and develop cyber-friendships in our themed chats. Chat also gives kids the rare opportunity to interact with peers from other backgrounds, cultures and even countries.

According to recent statistics, *FreeZone* members are 40% boys and 60% girls. Internet access at home is a convenience 83% of our registered users have, while 10% access the Internet at school, a library or their parent's office.

LET'S CHAT!

FreeZone hosts five chat rooms a day, Monday through Friday, and four chat rooms a day on Saturday and Sunday. We've found that afternoon and evening chats are typically the most popular. During peak times, five separate chat rooms operate at full capacity -- 30 kids per room. That means approximately 100 to 200 kids participate in *FreeZone* chats every day. Most Internet chat rooms reach capacity at more than 40 users. *FreeZone* limits the number of participants to make the chats easier to follow and monitor.

When up to 30 kids ages 8 to 14 gather in a *FreeZone* chat room, our monitors, known as Chat Jockeys, are put to the test. These cyber chaperones are the links who guide kids through the interactive world of *Curiosity's FreeZone*. In addition to enforcing *FreeZone's* code of conduct, Chat Jockeys introduce kids to one another, share stories, respond to parents' concerns, and answer questions about everything from homework to HTML.

The monitors work to create an online environment where kids can truthfully represent and express themselves, while maintaining the sense of adventure critical to children's development. One of the biggest challenges for our monitors is keeping cyber dating to a minimum. On *FreeZone*, monitors try to steer the kids away from discussing their physical appearances. During unmonitored chats on other Web sites, inappropriate sexuality runs rampant, and kids describe themselves in stereotypical terms.

One way *FreeZone* ensures a comfortable online environment is by hosting themed chats. The themes, proposed by *FreeZone* kids, suggest discussion topics, instead of encouraging participants to spend their chat time searching for cyber girlfriends and boyfriends.

ADDRESSING THE SAFETY ISSUE

Curiosity's FreeZone's code of conduct, developed with the help of some dedicated *FreeZone* kids, is posted near every chat entry. Every user entering a chat must agree to the code of conduct before participating. Adult monitors make sure the chatters follow the conduct code.

The potential risks of Internet chatting are well known. The fear of sexual predators masquerading as children and initiating contact is justified. Fully live-monitored, kid-only chats significantly reduce, and can even eliminate, the risks associated with online chats.

While *Curiosity's FreeZone* understands and recognizes the potential dangers kids face on the Internet, our extreme safety precautions prevent our members from encountering such issues on the site. We'd like to explain how *FreeZone* avoids these problems and provide insight as to the issues *FreeZone* does deal with on a daily basis.

At *Curiosity's FreeZone* we hold our sponsors to the same stringent safety standards as those on which the site is based. During the initial stages of all discussions with sponsors, we share the safety guidelines which relate to potential promotions on *Curiosity's FreeZone*. Only after the sponsors have agreed to follow our safety guidelines will we proceed with discussions.

The Advantages of Safety

When kids feel safe and comfortable online, they have more fun, meet more friends and learn more about technology. *FreeZone* is highly unattractive to potential cyber-predators because of the extensive precautions we take to protect kids; they know they will be spotted by the specially trained monitors. Adults monitor every interactive area of the site: chats, bulletin boards, virtual postcards, e-pals, instant messaging and the home page constructor. *FreeZone's* Chat Jockeys act as rule enforcers, mediators and active chat participants.

More Than Words

We have printed and attached *FreeZone's* safety section for your review. We post a great deal of safety-related information because we believe it is essential to translate our strong beliefs about online safety into actual policies, posted on the site for every user to see. Educating *FreeZone's* members about how to ensure their own safety on and off *FreeZone* is a high priority. We believe that if kids learn what information they should and should not be sharing in chats, they will be another step closer to having a completely safe online experience. We have attached the following pages:

FreeZone's code of conduct -- the rules every *FreeZone* user must agree to and abide by in order to participate in the interactive areas of the site.

FreeZone kids' responses to our code of conduct -- kids express more concern about improving chat manners than about being approached by an adult.

A special section for parents and teachers -- answering frequently asked questions about why *Curiosity's FreeZone* is considered a safe site.

FreeZone's privacy statement -- used by the FTC and others as an example for the kids Web site industry. No matter which page a child is exploring on *FreeZone*, there is a link to the privacy statement at the bottom.

An explanation for kids about what and why *FreeZone* monitors. Answers to frequently asked safety questions.

Our Safety Zone alert form -- kids can find it on every page of every interactive area. They know to send it in if they receive an inappropriate e-mail message or feel uncomfortable in a chat.

Registration

Kids must register before gaining access to any of *Curiosity's FreeZone's* interactive elements. The FTC and the Children's Advertising Review Unit (CARU) require sites to contact the parents of each newly registered child ages 12 and under, notifying them of their child's involvement in the site and asking them to sign a permission form. It is possible for kids ages 12 and under to avoid the parental notification requirement by inaccurately stating their age as 13 or older during the registration process. We encourage our younger kid members to answer the registration questions honestly and trust that they do so.

The only disadvantage of requiring written parental permission, from a Web site's point of view, is the loss of potential members who leave the site because of the extra registration steps. *Curiosity's FreeZone* is the only kids Web site in full compliance with CARU and FTC policies.

Live Monitoring

Live monitoring by trained adults is the best and only way to provide a truly safe online environment for kids. Implementation of live monitoring is expensive and time-consuming, but the results are simply unattainable through other methods such as computerized monitoring or spot-checking of chats.

All of our monitors are carefully screened and specially trained. The majority of the chat monitors have other careers which put them in direct and daily contact with kids. Many are teachers, day care providers and coaches. We have found that professionals accustomed to working with kids have the best understanding of appropriate ways to deal with kids' behavior.

FreeZone's monitors are selected through an intense interview process and comprehensive background check. Training includes study from the *FreeZone* monitoring handbook as well as live practice under the tutelage of experienced chat monitors.

We've learned it is best to have the monitors work alongside their associates in *Curiosity's* offices, as opposed to out of their homes. By working out of the same space, the monitors are able to offer back up when chats get busy and advice when difficult situations arise.

The Role of the Monitor

FreeZone's monitors are trained to identify adults masquerading as children. They look for a certain tone and agenda that computerized monitors cannot identify. Any participant exhibiting signs of being an adult in disguise is immediately banned from chat.

Because of *FreeZone's* success at creating one of the safest sites on the web for kids, we are able to devote much of our time, energy and resources to other chat issues, such as children's behavior towards one another online.

One of the most common concerns monitors have is making sure the kids in the chat rooms treat each other with respect. Some kids have a tendency, if left unmonitored, to let their conversations veer toward antagonistic jabs at each other. The behavior is similar to that which begins when a teacher leaves a classroom for a few minutes. *Curiosity's FreeZone* is proud to be able to concentrate on building and facilitating positive relationships among kids.

Kids often test their limits by trying to bypass *FreeZone's* computerized language filters; they can disguise inappropriate language with randomly inserted letters. The monitors watch for any cleverly disguised language that made its way past the filters and address the perpetrators individually about their behaviors.

FreeZone's monitors constantly watch for exchange of personal information such as phone numbers, home addresses and e-mail addresses during chats. During the rare times they find such personal information, they shut down the entire chat room, then bring it back up instantaneously, clearing chatters' screens of all previous postings. The member caught posting his or her personal information then receives a warning about violating the code of conduct.

Monitors can ban kids from chat if they disobey the code of conduct. Before a kid is banned from the chat, he or she is given a warning by our monitors, which notes the section of the code the chatter has violated and explains how his or her behavior needs to change to keep chatting privileges. The severity of the offense committed is always taken into consideration before our monitors take action.

Monitors can ban kids from chats in two ways -- their *FreeZone* user names and their Internet provider addresses. Kids can be banned for a few minutes, hours or days, depending on the offense. Approximately one child per hour is banned from chat by their user name. Banning by Internet provider address is saved only for repeat offenders because it can affect other users who are logging on through that specific computer in libraries or classrooms.

After being banned, kids have a choice. They can appeal the decision by e-mailing the head chat coordinator, or they can apologize and take responsibility for their code violation. Although kids are never happy to be banned from a chat, the reinstatement process teaches them negotiation skills if they choose to appeal and the benefits of taking responsibility for their actions if they choose to apologize.

The Internet is a new medium producing new risks and offering new universes of possibility. In order to protect the Web's youngest explorers, we must educate both adults and children about how to ensure safety. At *Curiosity's FreeZone*, we believe we must become directly involved in our children's Web experiences. Computerized filters and monitors cannot replace direct human involvement when working toward attaining the promise and avoiding the perils of the Internet.

Also Submitted for the Record

Also submitted for the record, but not reproduced in this publication are the following items:

- Selected pages from the *Curiosity's FreeZone* website: FreeZone's Internet Safety Guide; FAQ: Frequently Asked Questions; Privacy Statement; FreeZone Code of Conduct; Why FreeZone Monitors; *Curiosity's FreeZone* Parents and Teachers Homepage; and If you encounter any offensive material.

9. Written Material from Cyberangels (Paramus, New Jersey) Submitted by Parry Aftab, Executive Director and Cyberspace Lawyer

Electronic Mail From Parry Aftab, Esq. [parry@Aftab.com]

Date: November 19, 1998

Subject: Comments

Cyberangels, the largest online safety and educational program in cyberspace, and the recipient of this year's President Service Award, is on the front lines in finding and reporting child pornography and online predatory pedophiles. We work very closely with federal, state and local law enforcement as the cyber-neighborhood watch. We also advise parents, schools and libraries about online risks and risk management.

We know first hand where the real dangers of the online world are, and believe strongly that information doesn't hurt children, people hurt children. That means while the focus has been, to date, on what information is delivered to the child, we should be more concerned about what information is delivered by the child to third parties, such as predatory pedophiles. Whatever solution is selected should include both education and supporting technology which blocks the ability of the child to share personally identifiable information with third parties, through chat, instant messages, ICQs, and e-mail.

As to information children and adults can access online from a library terminal, we strongly support the First Amendment of the U.S. Constitution and an adult's right to view any legal information or content, while just as strongly supporting a parent's right to chose what their children read and view.

Adults should not have their access filtered. Unless the adult consents to such restriction, we believe that restricted access for adults violates the First Amendment. There is no "in between" when adult access and the First Amendment is concerned. Any restriction of adult access, beyond illegal content, no matter how distasteful to some of us personally, violates our constitution, the framework on which speech and freedom in this country is constructed.

The debate on whether to filter or not to filter children's access is too often seen as a political issue, when really it should be a parenting issue. With an initial ruling in the Loudoun County library filtering case indicating that filtering adult access may violate the First Amendment, libraries must be keenly aware of their actions as a governmental agency, bound by the confines of the First Amendment.

Why should the libraries be forced to choose whether children should be provided unlimited access or restricted access? The libraries can just as easily shift the choice back to the parents. Children with a library card can be given a permission slip to be signed by their parents. The permission slip can allow the parent to restrict all library Internet access for their child, or permit unrestricted access or filtered access. The permission slip should be accompanied by information regarding the filtering product or service used by the library, as well as information regarding the inevitable imperfect filtering that would possibly block "good" sites while letting some "bad" ones through. The child's

library card can then be punched to indicate whether the child is permitted online access, and if so, which type of access.

By making it a parent's choice the First Amendment is not impacted, and libraries can get on to the business of providing information, resources and knowledge, instead of having to debate the politics of online filtering.

Librarians and library media specialists will lead us in this technological revolution. They are the only ones with the training and expertise to handle this amount of innovation and information. They should be freed from this political quagmire in order to spend their time, energies and expertise in helping us find reliable content and sites, a groundwork for teaching plans and ways to manage the voluminous amounts of information and resources online, and to help teach our children the computer literacy skills so essential to their futures.

We appreciate the opportunity to comment on such an important issue, and are available for any questions you may have.

Parry Aftab, Esq.

Cyberspace Lawyer, author of A Parents' Guide to the Internet ... and How to Protect Your Children in cyberspace, and Executive Director of Cyberangels

parry@Aftab.com

<http://www.cyberangels.org>

<http://www.familyguidebook.com>

<http://www.Aftab.com>

10. Written Material from Emmanuel Investments, Inc. (Elkhart, Indiana), DBA ChemStation of Northern Indiana Submitted by Mark L. Eades, Jr., Fred and Candace Bechtel, Kent Riffell, Rik and Marjean Kain, and Sharon Denaway

Facsimile Transmission from Emmanuel Investments, Inc.

To: The National Commission on Library and Information Science

Subject: Library filtering of Internet pornography

Date: December 7, 1998

It is unbelievable to us that we would be writing this letter on this topic. As a society, we seem to be losing our grasp on common sense and on the founding principle of the United States of America, "in God we trust." The question, "should a minor be exposed to pornography?" seems to cry out for only one answer, **No!** Obviously, we cannot comprehend why U.S. District Judge Leonie Brinkema would strike down the Loudoun County, Virginia libraries policy to filter pornographic material on the Internet used in the libraries. It seems that our founding fathers would wonder how the First Amendment right has gotten so twisted and protective of those who would look to deteriorate our morality.

We are writing to support filtering of pornography of the library system in our United States of America and to specifically support the Loudoun County, Virginia libraries' efforts. Please use your resources to protect our youth from pornography at their libraries.

Mark L. Eades, Jr., Elkhart, IN
Kent Riffell, Goshen, IN
Sharon Denaway, Elkhart, IN
Marjean Kain, Plymouth, IN

Candace Bechtel, Elkhart, IN
Rik Kain, Elkhart, IN
Fred Bechtel, Elkhart, IN

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**11. Written Material from the Fairbanks North Star Borough Public Library
(Fairbanks, Alaska) Submitted by June Pinnell Stephens**

Electronic Mail From June Pinnell-Stephens [junep@muskox.Alaska.edu]

Date: October 27, 1998

Subject: Hearings

I recently learned of the NCLIS hearings in November concerning children and the Internet. Since I won't be able to attend the hearings, I wanted to express my concern about one of the agenda items - "the library community's aversion to censorship."

We frequently hear that ALA's policies about intellectual freedom are merely our opinions and have no official status. As written, that's true. However, official bodies - commissions, boards, or other groups - have adopted those policies as official local statements. In essence, they agree with ALA's perspective and wish to make it official for the communities they represent. The fact that so many communities adopted ALA's policies indicate that "aversion to censorship" goes far beyond the library community - *Americans* don't like censorship.

Most of us recognize that the Internet includes material not intended for young children. However, our in-house collections also include material some people feel is not appropriate for children, or we wouldn't have more than 600 reconsideration requests each year. Rather than relying on the false security of technical solutions to what are really constitutional issues, we need to emphasize education and guidance for library users of all ages. We have successful models already operating in many communities that we need to publicize and make readily available to those still trying to find local solutions to Internet access. We must also recognize that the "library community" and its commitment to protecting constitutional rights lie at the heart of those local solutions.

June Pinnell-Stephens
Collection Services Manager
Fairbanks North Star Borough Public Library
907-459-1020 907-459-1024 fax
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**12. Written Material from the Garfield Library of Brunswick (Brunswick, New York)
Submitted by Karen G. Schneider, Director**

Testimony of Karen G. Schneider

Karen G. Schneider
Director, Garfield Library of Brunswick
December 10, 1998

My name is Karen G. Schneider. I am the director of the Garfield Library of Brunswick, New York, the author of *A Practical Guide to Internet Filters*, a former children's librarian, and a member of the Outsourcing Task Force of the American Library Association. I have studied Internet content filters for over two years and have directed two libraries, including the Garfield Library, that offer open Internet access. My resume is attached to this testimony. For additional background material informing this testimony, please also see the expert reports I submitted in the Mainstream Loudoun case, at http://www.censorware.org/legal/loudoun/980618_expreportkgs_ml.htm and http://www.censorware.org/legal/loudoun/980730_exprebutkgs_ml.htm

Introduction

The Internet introduces material into libraries that we have not dealt with before. This presents new risks as well as opportunities. Any solutions we consider for managing Internet content in libraries must be sensitive to the long-term impact on intellectual freedom and the constitutional rights of adults and children, must be logistically sound so that the average library could implement them, must not infringe on the legal governance of local library boards, and must be flexible enough so that libraries can adapt strategies that best fit their own communities.

Problem #1 Internet Filters are Inherently Flawed

First, I endorse the testimony of the Urban Library Council and Mainstream Loudoun. I caution NCLIS to avoid any solution that infringes on adult use of the Internet or mandates filtering for libraries. We all recognize that there is material on the Internet that most of us do not want small children to see. However, Mainstream Loudoun has eloquently outlined the problems inherent in simply mandating filtering throughout a library, for all patrons (which, they point out, was the focus of the Loudoun case, despite Mr. Burt's misstatements). Internet content filters are inherently flawed. They are mechanical tools wrapped around subjective judgment, and the sites that they block are encrypted in databases hidden to librarians and patrons alike. There is extensive and well-documented evidence, including my own, demonstrating that filters can and will block Constitutionally protected speech, and demonstrating also that "tweaking" or "tuning" filters or using a "better" product cannot prevent protected speech from being blocked. Furthermore, as the Mainstream Loudoun decision points out, it is unreasonable and burdensome to require adult patrons to ask librarians to unblock sites that are blocked by filters; that is tantamount to requiring patrons to request the reinstatement of banned books.

Mr. Burt is a "pro-filtering" advocate whose efforts to mandate filtered access to the Internet have been lauded by groups such as the Family Research Council and Focus On the Family. In attempting to demonstrate that filters only limit negligible amounts of free speech -- as if there were such a standard -- he has unwittingly underscored my argument. Imagine if the NCLIS heard that private organizations were slipping into libraries at night and removing books, and that Mr. Burt then testified that this was only a negligible amount removed, after all, (to use his term) "by mistake." Surely the NCLIS would agree that there is no tolerable level for the censorship of protected speech. The last ten years have seen rapid changes in information technologies; we are long past the point where we can dismiss the Internet as a nonessential or frivolous tool. Certainly the Quakers, the American Association of University Women, and the small businesses and magazines I communicated with whose sites were blocked by filters do not see the Internet as frivolous or optional. The real mistake would be to mandate a solution that we know is substantially, perniciously flawed. The rest of Mr. Burt's misleading testimony to NCLIS has been effectively addressed by the Mainstream Loudoun document.

Problem #2: Interactive Communications and Children

Several groups who have testified have commented on interactive communications and children. I am glad we are turning to a subject most of us can legitimately discuss, since the question of what is or what is not pornography, however salaciously appealing the discussion, is determined by lawyers, not librarians.

As a former children's librarian and current library administrator, I believe that access to interactive communications by small children is a problem requiring close attention. The facile answer would be, "use a filter" (or even, "require a filter"). However, the issue is far too complicated for such a pat response. I predict that the Internet will soon become a predominant medium for interactive, real-time communications, replacing current telephony and similar media. This is an easy prediction, given the rapid evolution of electronic technology and the development of high-bandwidth backbones capable of carrying very heavy traffic. Information flows along the path of least resistance. It is now very difficult to block some (let alone most) interactive media available on the Internet; the study I directed in 1997 found that filters were not effective at blocking chat-related web sites, no doubt because so many web sites now provide interactive capabilities. As interactive communications become ubiquitous, and the networked environment itself becomes ubiquitous, the question will change from "how do we prevent chat" to "what do we do to manage this pervasive and essential medium?" These changes, too, will present both risks and opportunities. Any solutions must acknowledge, even anticipate the massive changes occurring in communicative media.

Problem #3: The Senior Minor

Another problem that has received very little attention is the question of the "senior minor"--specifically, teenage juveniles. Many people believe that a five-year-old and a seventeen-year-old should have different access privileges. What people rarely agree on is when children are old enough to access information on the Internet. There are over 9,000 public libraries in the United States, and each library has its own approach for determining the age of majority for access to information. Some libraries are fully "open access;" some require parental permission; some require the presence of adults when small children access the Internet; some limit access to information for certain age groups entirely; and some require instruction before access is allowed — there are nearly as many local solutions to access as there are libraries.

Recommendation #1: Legislate Technological Development, Not Filtering

Legislating any response to Internet content in libraries, whether for adults or for children, is a bad idea. There are many libraries, including my own, where filtering one computer would result in filtering all Internet access for adults and children alike (which is insupportable), and there is no simple tool for managing this access. Additionally, any solution mandated for "children" will turn out to be a poor fit in communities where senior minors are accorded most adult privileges.

This points up another weakness with legislating any "solution": federal legislation can rarely be written carefully enough to customize itself for the hundreds of thousands of communities in the United States. At best, legislation would give us a "shoebox fit." Allowing local library boards to set policy--as is true for other access issues--is in the best tradition of American democracy. All public libraries address information access through policy, in a democratic process where the library proposes, the community considers, and the elected or appointed board trustees vote. This process does not guarantee that the board will vote for a legal or fair solution in every case, but overall it has worked well as a tool for interpreting local standards for access. If the NCLIS has the urge to mandate anything, I recommend that it mandate all public libraries develop Internet access policies

prior to offering the Internet to the public. While this recommendation would be largely superfluous, it would underscore the commitment of NCLIS to the local policy process.

Mandating current technical solutions, such as Internet content filters, would also have a dampening effect on the creative environment needed for developing other new solutions. What would be the incentive for developing other solutions if filters are legally required for use? Why limit ourselves to imperfect and crude tools? Instead, direct funding toward schools of library science specifically for studying and developing information retrieval tools designed for complex public information environments.

Furthermore, legislation has a poor record of keeping up with technology. If the Internet changes rapidly in the next five years--and this is an easy prediction, given that five years ago, most government agencies had never heard of the World Wide Web, let alone mounted testimonies on their web sites--we may be stuck with a solution that is a poor fit for the current technical environment but is nearly impossible to get rid of given the highly charged environment surrounding any legislation involving children and their supposed access to sexually explicit material.

Finally, privatizing the deselection of information (which is what filters do) is a dangerously slippery slope. The deselection of information in Internet content filters is done by people who are not informational professionals and who perform these functions for commercial entities. I would not outsource weeding books to a company that used nonprofessionals who crept into my library after hours, pulled books off the shelves, and then hid the evidence; yet that is exactly what filters do -- remove access to information and then prevent the licensor or user from seeing the list of what has been blocked. I do not ascribe malevolent intent to most filter manufacturers. However, the simple truth is that these companies exist to make money, not to provide a public good. This is at odds with the goals of public library service, and needs to be considered whenever filtering is considered as an optional or required solution. The standard-bearers of the library profession should not facilitate the commercialization and deprofessionalization of core library services.

Furthermore, there are many responses to Internet access in a public setting that are more friendly to the Bill of Rights than filtering. To keep adult use private--an essential goal for preserving Fourth Amendment rights as well as ensuring a discrete buffer zone between adult and child use of the Internet--privacy screens, privacy desks (such as those developed by the Nova Company--see <http://www.nova.com>), policy and instruction work well in many libraries. To separate child and adult use of information, permission slips, separate computers in children's areas (where feasible), or software that distinguishes between adult and child users works well in many libraries. Sometimes something as simple as pointing a computer monitor away from a highly-trafficked area can remarkably improve the privacy buffer zone.

Recommendation #2: Support Library Funding For User Education

The NCLIS can and should develop a revenue stream pointed at funding user education in libraries. This will also enhance the status of librarians in their communities, provide new career streams for library graduates, and allow us to develop and adapt to new roles beyond the traditional "book model" of library service.

For over a century, librarians have been developing skills in what was once called "bibliographic instruction" and is now usually referred to as "user training" or "user education." User instruction allows libraries to set the tone for Internet access in libraries in a friendly, diplomatic fashion. No matter what solutions libraries turn to for managing Internet content -- filtering children's access, requiring parental permission, posting policies, providing privacy screens, etc. -- user education is a

useful, necessary tool for educating parents, children, caregivers and others on the nature of the Internet, the policies of the library providing these services, and safety guidelines for ensuring children are not preyed on or exploited. There are many librarians who believe it is better to teach children what to do if they access information that makes them uncomfortable than to attempt to block material that will inevitably (as my own research demonstrates) flow around the software block.

As the NCLIS recently reported, nearly 75% of all public libraries now offer some form of Internet access. As a "front line" librarian who has worked directly with the public for a number of years, I know that patrons need and want guidance, direction and advice for navigating the Internet. Many libraries, including my own, are struggling to provide Internet instruction, in addition to all of the other services we offer. Our library consortium, the Upper Hudson Library System, has received LSTA funding for a "Safe Netting" grant that includes model instruction class librarians can bring back for parent/child training. Similar models can be found elsewhere, such as the CyberKids program at Canton Public Library, Michigan, discussed in my September, 1997 *Internet Librarian* column in *American Libraries*.

Recommendation #3: Support Research in Public Internet Use and Technologies

One of the most interesting problems mentioned is the example of the child who "stumbles" across material that may not be age-appropriate. While this "stumbling" may be less frequent and more intentional than some speculate, it points up some very real problems with directory services and the Internet. In our "analog," non-computerized world, information labeling has a depth that allows us to distinguish between the same street addresses in different towns, states or countries. Information has a better sense of its location in the analog world. Many Internet scientists have pointed up the inadequacy of the Internet naming scheme, which allows us to have only one "brunswick.org" (as we recently discovered when we began searching for a domain name for our library). This flatness contributes not only to naming problems, but to a shallow information organizational scheme. The over cited case (never observed in a public library setting to my knowledge) of a child seeking "whitehouse.org" and finding "whitehouse.com" is a symptom of a fairly significant naming scheme problem that requires attention and research funding. The Internet is so complex and dazzling to many people that it is hard for them to understand just how crude its organizational structure actually is compared to the analog world, where information tends to fall into its appropriate compartments (libraries, bookstores, television, personal reading shelves, schools, etc.). We need to fund research to help the Internet move beyond its simple "info trash barge" model and toward a model that supports a wide variety of uses and perspectives. When this happens, many of the potential problems cited to the NCLIS will simply be superseded by technological advances.

Other technologies for authenticating identification and providing people with an online "presence" that does not violate their personal privacy need attention and development, as well.

Conclusion

It is quite common to hear pro-filtering advocates talk about "protecting children." As a former children's librarian, I believe that "protecting children" includes ensuring they grow up to enjoy the same constitutional freedoms their parents had. Intellectual freedom is a delicate ecosystem, easily damaged by ignorant or malevolent intrusions. The NCLIS has a duty to librarianship and the communities we serve to ensure all recommendations and decisions err on the side of access to information. I encourage the NCLIS to provide advice that is flexible, adaptive, and useful to a wide variety of libraries and communities, and I urge the NCLIS to listen to and work with the library communities it represents.

13. Written Material from The George Washington University, Institute for Communitarian Policy Studies (Washington, DC) Submitted by Amitai Etzioni, Director

Facsimile Transmission From Amitai Etzioni

The George Washington University
Washington, DC

Institute for Communitarian Policy Studies

To: Barbara Whiteleather

Date: December 8, 1998

From: Andrew Becker

Subject: Kids and the Internet

Comments: Ms. Whiteleather, please include the following pieces in your files for "Kids and the Internet". We also have a more academic-style version should that better suit your needs. If you would like to have that version, or to speak to Dr. Etzioni, please call me at 994-4981.

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"ACLU Favors Porn Over Parents" by Amitai Etzioni Published in *The Wall Street Journal*

ACLU Favors Porn Over Parents
by Amitai Etzioni
***The Wall Street Journal*, Wednesday, October 14, 1998**

The good people of Loudoun County, Va., thought they had found an effective way to protect their young children from pornography when they surf the Internet at the county library. The library installed X-Stop, one of a new category of software programs that block access either to a given list of Web sites or to messages that contain certain key words (say *bestiality*). Other brand names include Cyber Patrol and Net Nanny.

But the Loudoun County Library's board of trustees did not take into account the American Civil Liberties Union, which appears determined to ensure that kids have access to everything on the Internet, including hard-core porn. The ACLU is suing the library on behalf of eight plaintiffs who manage Web sites blocked by X-Stop. The case was to have gone to trial today, but Federal Judge Leonie Brinkema -- who in April sided with the ACLU against the government's motion to dismiss the case -- has announced that she will soon decide the case summarily.

In January the ACLU celebrated a victory in Kern County, Calif., where the library agreed to give patrons -- minors included -- a choice between filtered and unfiltered computers. The ACLU gloats that "no parental consent will be required for minors to access unfiltered computers." The children involved are often quite young. One of the ACLU's plaintiffs in the Virginia case, who runs a Web site on "safer sex" reports that he responds to queries from children who are 13 and younger.

The ACLU predictably argues that Internet filters constrict the flow of ideas. The organization accuses the Loudoun County Library of “removing books from the shelves of the Internet with value to both adults and minors in violation of the Constitution.” Some ACLU representatives, including lawyer Marjorie Heins, even object to parents using filters in the privacy of their homes. “Rather than increasing opportunities for kids to learn and talk about sex, America seems poised to close them up,” Ms. Heins laments.

The American Library Association also objects to Internet filters, stating with reference to the Internet that “the rights of minors shall in no way be abridged.” This position is based on something called the Library Bill of Rights which commands that “a person’s right to use a library should not be denied or abridged because of origins, age, background, or views.”

The ALA goes even further. Its confidentiality rules prohibit disclosing any information about what patrons read to anybody, including parents. These rules have legal force in several states, including Wisconsin and Illinois. This can lead to some bizarre situations, as librarian Ron McCabe explains. Parents sign their child’s application for a library card, promising to make the library whole if books are lost. The parents get a notice that a book is overdue. When they ask which book is missing, librarians reply that they can’t disclose it – unless the parents bring a consenting note from their child.

On other fronts, too, the ACLU is fighting for what it sees as the First Amendment rights of children. It opposes limits on tobacco advertising aimed at children, even when the industry volunteered to do so while it was negotiating a deal with Congress. And when major corporations, including Disney and Kellogg, offered to require parental permission before collecting information about children under 12 who visit their Web sites, they ran into fierce ACLU opposition.

The ACLU’s determination to give minors the rights adults enjoy is a perversion of freedom. Underlying a free society is the assumption that individuals have a basic ability to render judgments. But we aren’t born with that ability: children gradually develop it. For this reason we are not charged with violating children’s right to free assembly when we prevent them from running into the street, or their privacy rights when we examine their homework.

Parents not only have a right but a duty to help shape the education of their children, help them choose which books they should read, which music they should listen to, which TV programs they should watch – and which to avoid. This seems indisputable when we’re talking about preteens, and even the parents of teenagers need to be involved rather than shut out. If a classmate of my son has committed suicide, and my son seems rather depressed and is spending long hours alone in the library, it is my duty at a minimum to find out if he merely reads Dostoevsky or the Hemlock Society’s how-to books. I also had better find out if one of my children is deep into “Mein Kampf,” “The Anarchist’s Cookbook” or the Unabomber’s manifesto, so I can help him learn to deal properly with these poisonous works.

Helping children to develop the moral with intellectual faculties to make responsible choices when they grow up is what raising kids is all about. Anybody can provide room and board, and love comes naturally. But developing a child’s character is a parent’s highest duty – a duty no civil libertarian should interfere with.

Mr. Etzioni teaches at The George Washington University. His next book, “Limits of Privacy,” will be published in the spring in Basic Books.

"Porn Filters Are a Net Benefit:" Responses to Letters to the Editor of *The Wall Street Journal*

Letters to the Editor

Porn Filters Are a Net Benefit

The Wall Street Journal

Tuesday, November 3, 1998

In response to the Oct. 22 Letters to the Editor ("Frontal Prudery in the Library") criticizing my Oct. 14 editorial-page commentary "ACLU Favors Porn Over Parents":

Children who viewed pornography material are more likely to engage in "orally copulating with another child" and "inserting an object into their anus or vagina or that of another child," according to court testimony by a UCLA psychologist. The ACLU responded by saying "explicit sex information and even pornography do not themselves cause psychological harm to minors of any age." I suggest that while these differences are sorted out we best err on the side of caution and protect children, especially those ages 12 and younger, from exposure to filthy and gratuitous violence.

The ACLU and the American Library Association (ALA) object to filters on the Internet in libraries, calling them "mandatory government censorship," as if some federal or state law was enacted requiring libraries to install filters. Actually, the installation of filters is a decision made by each community in accordance with its values.

The civil libertarians' legitimate concern that filters block materials that adults should be able to access is easily addressed once extremism is replaced with a modicum of good will. Librarians can guide children to filtered computers and allow adults unrestricted use to unfiltered computers placed in a separate part of the library. This presumes, though, that these "government agents" will play an active role in helping parents and communities to guide children.

When it suits the ACLU it points to a section in its report entitled, "Blocking software: for parents, not libraries." The text states that the Supreme Court took this position, but the ACLU is almost as hard on parents who use filters as they are on libraries. Far from hailing them, ACLU attorney Marjorie Heins chides libraries and parents for relying on filters, quoting a moderate privacy advocate: "good parenting is not something found in a software filter." And speaking of V-chips, the ACLU (March 12, 1996) "urged parents not to delegate their child reading authority to a silicon chip."

Raising children is a tough job, especially in this age. Parents need all the help they can get, whether it is from librarians, chips or computer programs. Ann Symons, president of the ALA, is right, though, when she writes that filters do not "filter out all unsuitable matter." We need to make them even more effective.

Amitai Etzioni
Professor
George Washington University
Washington, DC

14. Written Material from the Georgetown University Law Center, Institute for Public Representation (Washington, DC) Submitted by Randi Albert

Electronic Mail From Randi Albert [albertr@wpgate.law3.Georgetown.edu]

Date: October 13, 1998

Subject: Open Hearing on "Kids and The Internet: The Promise and The Perils"

I would like to attend the Open Hearing on "Kids and The Internet: The Promise and The Perils" on November 10. The Institute for Public Representation (IPR) has been very involved in issues affecting children online for several years. On behalf of our client, the Center for Media Education, IPR filed the Kidscom complaint at the FTC, resulting in the FTC's first official policies affecting children online. We have continued to monitor this important issue, participating in meetings and conferences at the FTC and NTIA. In addition, we recently had a key role in drafting the pending legislation designed to protect children's privacy online.

If you need any additional information, I can be reached at (202) 662-9545 or by e-mail at albertr@law.georgetown.edu.

Thank you,
Randi Albert
Institute for Public Representation
Georgetown University Law Center

15. Written Material from Kansas State Library (Topeka, Kansas) Submitted by Duane Johnson, State Librarian

Letter From Duane Johnson

Kansas State Library
Capitol Building
300 SW 10th Avenue
Topeka, KS 66612-1593

November 23, 1998

Dear Mr. Willard and Members of the Commission:

Thank you for adding these comments to the public record in the Commission's information gathering on the issue of "Kids and The Internet: The Promise and The Perils."

Thanks also for the Commission's concern for this issue and willingness to be informed about it. It is my strong hope that the motivation of the Commission to conduct a hearing and to collect information in this area is to be able to better advise federal government on this issue.

Local officials also are alert to this problem. Here in Kansas, librarians and other educators and library trustees are participating in a workshop series that focuses on policy for Internet access. The objective of each workshop is to help local officials understand the issue and to then develop and implement policy that addresses the issue. Further consulting and education will follow the workshop series, as these supports are needed.

Through discussions in many communities, we have found that there is no single policy or Internet management action that meets the need of all Kansas communities. As in other areas of policy for library service, local nuance is very important, and local decision making is absolutely essential. Each library and school is protecting the community's children, but with the policy and practice that is found to be most appropriate for that community.

Consequently, it is unnecessary and it is counterproductive for federal government, or an agency of federal government, to intrude in this local policy process. It is no more appropriate for federal government to attempt to direct local policy for Internet access than it would be to intrude in policy for book selection or management of other information resources. I urge the Commission to give this advice to decision-makers in federal government.

With you, we recognize the seriousness of this issue in Internet access. But local officials in Kansas are managing this problem very well. The Commission can feel assured that the special interests of children are held as a high priority in policy development for Internet access.

Thank you for the opportunity to comment.

Sincerely,

Duane Johnson
State Librarian

**16. Written Material from the Loudoun County Public Library (Leesburg, Virginia)
Submitted by Douglas Henderson, Library Director**

Electronic Mail From Douglas Henderson [dough@lcpl.lib.va.us]

Date: Wednesday, December 9, 1998

Subject: Kids and the Internet

It is beyond my imagination that there is an interest in controlling the curiosity of children by looking for the lowest common denominator. Children, in a library setting, will be directed by trained professionals to quality information resources. Librarians will continue to practice their profession. The Internet merely offers another avenue for their skills to be used. Librarians will continue to review, select, organize and disseminate information. they will help to organize the World Wide Web and present it as an informational resource. E mail and chat lines have their place, and I am sure can be used to share information but are not necessary in the library setting. The professional will gather the resources and make them available. It is also important that librarians educate all of the customers that wish to use these new technologies. Parents must work with children and librarians must work with both the parents and the children. I also feel that Government should not be involved in making choices for families. Adults can choose if they want full or censored access and parents can decide for their children. Strong acceptable use policies and professional guidance by librarians is the key. If you wish to control the Internet don't make our public libraries bear the cross. Why should over 30,000 libraries supported by taxpayers have to pay to control the telecommunications industry? If Government feels a need to regulate an industry then have them make the industry do it.

**17. Written Material from the Malmo Evangelical Free Church (Isle, Minnesota)
Submitted by Robert Carl, Pastor**

Letter From Pastor Robert Carl

Malmo Evangelical Free Church
HC 69 Box 136, Isle, MN 56342
Phone 612-684-2201

December 2, 1998

To Whom It May Concern

As a pastor and a Christian, it is clear what is happening in America. I believe that pornography is a vivid example of the abuse of liberty and the freedom of speech. I do not believe that the framers of our Constitution anticipated such moral and spiritual decay in America. No democracy can exist without strong moral and spiritual self-discipline and laws that deal with those who abuse liberty.

I also believe that on the legal basis, such material encourages a hostile work environment where unwelcome sexual advances and sexual harassment would become more frequent. This is a clear violation of Title VII of the Civil Rights Act.

I therefore strongly urge you on a moral, spiritual and legal basis to enact such policies as would prevent the abusers of liberty from further infecting our children, youth and adults with their message of personal and national destruction of values.

Sincerely
Pastor Robert Carl

**18. Written Material from the Michigan Library Association (Lansing, Michigan)
Submitted by Eric Suess, Chair, Intellectual Freedom Committee**

Facsimile Transmission from Eric Suess

MLA Michigan Library Association

TO: U.S. National Commission on Libraries and Information Science
FROM: The Intellectual Freedom Committee of the Michigan Library Association
DATE: December 10, 1998
Subject: "Kids and The Internet: The Promise and The Perils" Creation of Practical Guidelines for Librarians

The Intellectual Freedom Committee of the Michigan Library Association wants to share its approach to the issue of children and the Internet. While we vigorously support children's safety, we feel there is an unnecessary element of hysteria when discussing children, public libraries, and the World Wide Web.

The committee has identified four aspects of the issue we believe should receive more in-depth examination.

U.S. National Commission on Libraries and Information Science

1. that the Internet is but one element in the larger issue of child safety
2. that Internet access at public libraries poses less risk to children than unsupervised Internet access in homes
3. that parental responsibility must be exercised more actively both in and out of the home
4. that libraries should become proactive and promote the library as *the* place where library users both young and old can learn how to make good and *safe* information choices

Our committee believes the Internet has the potential to universalize the highest quality of information to all peoples. We feel strongly that with freedom comes responsibility and that responsible access to information must be nurtured through partnerships linking libraries, schools and families.

Should you want additional information for continued discussion, please contact

Eric Suess,
Chair, Intellectual Freedom Committee MLA
Fraser Public Library
16330 Fourteen Mile Rd.
Fraser, MI 48026

810-293-2060
810-294-5777 (fax)

6810 South Cedar, Suite #6, Lansing MI 48911
517-694-6615

19. Written Material from National Organization for Women, Inc., Dulles Area Chapter (Vienna, Virginia) Submitted by Marie-Jose Ragab, President

Facsimile Transmission from Marie-Jose Ragab

December 9, 1998

US National Commission on Library and Informative Science

Gentlemen:

The dissident Dulles NOW Chapter of the National Organization for Women believes that pornography in public libraries, both on paper and on the Internet, creates a sexually hostile environment for staff and patrons and is a direct violation of the Civil Rights Act of 1964.

Dulles NOW supports Virginia Representative Richard H. Black in his efforts to block pornography from public libraries and thereby advance the cause of women and girls.

Sincerely,
Marie-Jose Ragab
President

505 Glyndon Street, NE, • Vienna, Virginia 22180 • Fax (703) 255-7161

20. **Written Material from the Oklahoma Library Association (Norman, Oklahoma)
Submitted by Debra Engel, President**

Letter from Debra Engel, President

November 23, 1998

Dear Mr. Willard:

The Executive Board of the Oklahoma Library Association discussed the ALAWON report of November 12 at our monthly Board meeting last Friday. We appreciate the opportunity to share the perspective of Oklahoma librarians concerning children and the Internet. The Oklahoma Library Association includes 1,000 school, public, academic and special librarians from across the state.

Librarians in Oklahoma's schools and Oklahoma's public libraries are concerned about kids and the Internet. We work with kids during the school day in their school libraries and after school providing homework assistance in their public libraries. Many of these children do not have access to information resources in their homes and the school or public library may be their only source for homework information as well as reading materials.

Some points to consider:

- Library policies, including the Internet policies of Oklahoma's school and public libraries are currently determined by locally appointed or elected board members. In our public libraries, board members are selected by our City Councils and County Commissioners. In our schools, board members are elected by the citizens in the community. Federally mandated filtering requirements effectively remove the policy decisions from local citizens. Why does the federal government want to mandate policies for school and public libraries that have community representatives on locally appointed or elected boards doing that job?
- We strongly believe that each community deserves the opportunity to determine their own Internet policies for school and public libraries. In Oklahoma there are school and public libraries that provide filtered and unfiltered access to the Internet depending upon the Internet access policy determined at the *local* community level.
- Kids are capable of learning critical thinking skills. Our education system is designed to help kids learn how to analyze information and apply information to life situations. As educators, librarians, and parents we must help our children learn how to determine what information is valid and accurate and what information is inappropriate.

If you need further information about how school and public libraries are helping parents and children use the Internet productively, I hope you will contact me.

Debra Engel
President
Oklahoma Library Association

Pioneer Library System
225 North Webster
Norman, OK 73069

CC: Kay Boies, Executive Director, Oklahoma Library Association
Oklahoma Congressional Delegation

21. **Written Material from the Oregon State Library (Salem, Oregon) Submitted by Jim Scheppke, Oregon State Librarian**

Letter from Jim Scheppke

Oregon State Library

November 16, 1998

I wish to add my comments to the public record concerning the Commission's recent hearing on "Kids and The Internet: The Promise and The Perils."

I appreciate the Commission's interest in this important topic that is a matter of great concern to the public and to the library profession. I urge the Commission, however, to view this issue as one that is best left to the careful deliberations of local elected officials, and not one that should be addressed through Federal or state policy.

If the Commission wishes to create 'practical guidelines' on this issue, I would hope that the Commission's guidelines would simply urge each local community to seek input from all segments of the community, and develop local policies and procedures for Internet access in local libraries that reflect that community's values, respecting, of course, the legal requirements of the U. S. Constitution, and other state constitutional and legal requirements.

There is simply no need for the intrusion of the Federal government, or state governments, in what is essentially an issue for local governments in Oregon and elsewhere. If local governments were doing nothing to prevent minors from accessing indecent materials on the Internet, intervention by the Federal government might be justified, but in Oregon and elsewhere, this is not the case.

Nearly every community in Oregon has had extensive debate over the appropriate level of Internet access for minors in school and public libraries. Nearly every community in Oregon has reached a resolution to this issue that reflects the consensus of the community.

These solutions are varied. In Baker County, for example, the county library has begun to filter all Internet access, but uses filtering software that can be turned off, if necessary, to allow adults unrestricted access to information at their request. The Dallas Public Library has adopted a similar policy. The Lake Oswego City Council recently voted to restrict minors from unfiltered access to the Internet. Other libraries, like the Multnomah County Library, have chosen less restrictive access policies.

In my opinion, it would set a very dangerous precedent, were we to begin to see the Federal government or state governments begin to micromanage the policies of local public and school libraries. Local libraries are primarily a local government concern, and local governments in Oregon are doing a good job of being responsive to their communities on this issue.

I hope the Commission will vigorously oppose any attempts to create Federal laws, or even "guidelines," that would usurp the authority of local governments over local libraries.

Sincerely,

Jim Scheppke
State Librarian

**22. Written Material from Pacific Bell Education First (San Ramon, California)
Submitted by Linda Uhrenholt**

Electronic Mail From Linda Uhrenholt [lxuhren@msg.pacbell.com]

Date: October 8, 1998

Subject: "Kids and the Internet" Invitation

Barbara,

I am a former teacher working with Pacific Bell Education First out here in California as an Education Advocate. One of the responsibilities I have is to educate teachers and librarians about successful use of the Internet and videoconferencing in the classroom. Last February I presented at the "Computers in the Library" conference held in Arlington, Virginia. My topic was "To Filter or Not to Filter." I've worked with several FBI agents in San Francisco and Columbus, Ohio, on my presentations.

I am working with the San Francisco Giants (pro baseball team) to create a web site all about the construction of the new ballpark. In doing so, I could not find the information I needed on the net. Off to the public library I went to look in BOOKS! I was at four libraries out here in my area and, of course, looked at their Internet set-ups. I was SHOCKED to find kids at all four libraries allowed to play around on the net in chat rooms. In two of the libraries were other people that were lined up to use the net for school work, but the kids in the chat rooms had access first.

Somehow that didn't sit right with me. I asked all the libraries about their policies and they all said the same thing "freedom of speech." It was just that I had given so many presentations on "Keeping Kids Safe in the World of Technology" that I was worried about the kids' safety!!

Would love to obtain an invitation to your event and was also wondering if there would be a way to videoconference with you to the event?

Linda Uhrenholt
Pacific Bell Education First
1S 100R
2600 Camino Ramon
San Ramon, CA 94583
925-824-9064

**23. Written Material from The Salvation Army, New Jersey Divisional Headquarters
(Union, New Jersey) Submitted by Major Paul Merriam, Financial Secretary, and
Evelyn Merriam, Women's Ministries' Secretary**

Letter From Major Paul Merriam and Evelyn Merriam

The Salvation Army
New Jersey Divisional Headquarters
4 Gary Road
Union, NJ 07083
Telephone (908) 851-9300
Fax (908) 688-4460

Dear Commission Members:

In merely twelve seconds we accessed hard core porn on the children's computers in the local library in a suburb of Pittsburgh. It was a wake up call and we went right to those who fund the libraries in Allegheny County – the county commissioners and the regional asset district board. It is incomprehensible to us that children who legally cannot buy pornographic materials are freely given it in our public libraries. We understand some of the problems with choosing blocking devices and yet feel that censorship of some sort has always been exercised by libraries – especially in providing reading materials for children.

You are no doubt familiar with the book, KIDS ONLINE, by Donna Rice Hughes. It contains current valuable information about protecting the innocents. Unfortunately, there is a need for another national group dealing with the results of some Internet activity – the national center for missing and exploited children. Please do what is in your power to help those who care more about children's lives than adults' rights to access pornography.

We have recently moved to New Jersey and continue advocacy for children and purity. Thank you for your interest.

Sincerely,
Major Paul [Merriam] and Evelyn Merriam
Financial Secretary and Women's Ministries' Secretary

December 2, 1998

24. Written Material from the University of California, Los Angeles, Graduate School of Education & Information Studies (Los Angeles, California) Submitted by Elizabeth Martinez, Senior Fellow

Letter from Elizabeth Martinez



University of California, Los Angeles
Graduate School of Education & Information Studies
GSE&IS Building
Box 951520
Los Angeles, California 90095-1520

December 1, 1998

Dear Jeanne,

It seems so long since we last spoke, and I regret that we have not had the opportunity to work together since I left the ALA. I expect that you are, well, and that you continue to enjoy the rewards of your expert leadership of NCLIS.

This year has been a successful transition to both consulting and teaching. I offer consulting in the areas of strategic organizational direction and policy development, as well as fundraising strategy, and venture philanthropy. As Senior Fellow at the UCLA Graduate School of Education & Information Studies (GSE&IS), I focused on the forecasting of next century librarian roles, and the use of technology in minority communities, as well as teaching "contemporary national information policy." I will teach "public library issues" during the 1999 winter quarter.

I am writing in regards to the NCLIS hearing on "Kids and The Internet: The Promise and The Perils." UCLA Professor Virginia Walter, a noted author of children's books and leader in the field of library service to children, and I developed a proposal for IMLS on children and the Internet which was not funded. The concept was to hold a summit of stakeholders, and leaders in the library, policy, and foundation communities to develop a research and policy agenda on children's access issues and the Internet. I think that this is a necessary step to basic knowledge and understanding of the issues facing librarians, children, parents, and policymakers, and would ensure that the many, diverse voices of -our communities are included in the development of research and policy agendas.

I am hopeful that you and NCLIS want to work with us to redesign and fund an NCLIS and UCLA/GSE&IS project that builds on the hearings that have been held and the landmark research that NCLIS has already completed. Attached is a copy of the original proposal for reference. I can be reached at (310) 974-5096.

Please give my regards to the Senator. I will always remember that he supported my vision of a national library foundation, the ALA Fund For America's Libraries, by agreeing to be the first chair. I wish you both a wonderful holiday season, full of peaceful moments and loving family.

Most Sincerely,

Elizabeth Martinez
Senior Fellow

CC: Dr. Michele Cloonan, Chair
Library & Information Science

25. Written Material from WebAware, Inc. Submitted by Judy Laitinen, Vice-President, Sales and Marketing

Electronic Mail From Judy Laitinen [Bjmeana@aol.com]

Date: November 23, 1998

Subject: Internet Filtering Software in Libraries

While I believe there is a need to raise consciousness regarding actual Internet use in public institutions, such as libraries, I believe the use of filtering software would be of detriment to the general public as well as a violation of ones 1st Amendment rights.

My company, WebAware Inc., has created a software program for use in homes, schools, public institutions (libraries) and businesses called WebPrints. WebPrints is an easy-to-use diskette that allows the user to "see where the computer has been looking". WebPrints gives a pictorial review of all of the Internet sites that have been visited on that particular computer allowing the individual or institution to set rules for computer use accordingly.

Please visit our web site for more information or call 800-webaware (932-2927) and a representative will assist you. Thank you for your time. I do hope to hear from you.

Judy Laitinen
Vice-President, Sales and Marketing
WebAware, Inc.

**26. Written Material from the Williamsburg Regional Library (Williamsburg, Virginia)
Submitted by Patsy Hansel**

Electronic Mail From Patsy Hansel [phansel@mail.wrl.org]

Date: Friday, November 13, 1998

Subject: ALAWON, v.7, n.140 – NCLIS Examines Child Safety on the Internet

Barbara: Wanted to make sure you saw this, particularly since I didn't hear Vachyss' comments about "Indiscriminate cries of censorship" quite the way that reporter did, but then maybe it came across differently in his written remarks, and I haven't read those yet. I also wanted to thank you for your part in the hearing. I was very pleased that we attended. All three of us from WRL felt our time was well spent.

Patsy Hansel
Williamsburg Regional Library

**"NCLIS Examines Child Safety on the Internet" from the American Library Association
Washington Office Newslines (ALAWON)**

ALAWON
ISSN 1069-7799

Volume 7, Number 140
November 12, 1998

American Library Association Washington Office Newslines

NCLIS EXAMINES CHILD SAFETY ON THE INTERNET

The U.S. National Commission on Libraries and Information Science (NCLIS) held an open hearing on "Kids and The Internet: The Promise and The Perils" on November 10, 1998, in Washington, DC. Jeanne Hurley Simon, NCLIS chairperson and moderator for the hearing, framed the hearing as an attempt to gather information that would guide the Commission in the creation of practical guidelines for librarians for the development of the Internet and the well-being of children. Simon said the Commission "recognizes the value of the net and the dark side of the net."

Those testifying before the Commission included Andrew Vachss, novelist and child advocate attorney; Larry Maxwell, inspector in charge, U.S. Postal Service, Postal Inspection; Kevin Higgins, chief deputy attorney general, Reno Office of the Attorney General, State of Nevada; Toby Levin, Federal Trade Commission; Deirdre Mulligan, staff Counsel, Center for Democracy and Technology; Bruce Watson, president-elect, Enough is Enough; Janet LaRue, director, Legal Policy, Family Research Council; David Burt, president, Filtering Facts; Ray Ewick, president, Chief Officers of State Library Agencies; Ann Symons, president, American Library Association; Eleanor J. Rodger, president, Urban Libraries Council; Lawrence Ottinger, senior staff attorney, People For the American Way Foundation; Gene Crick, president, Electronic Frontiers-Texas; Heidi Borton,

librarian; Karen Jo Gounaud, president, Family Friendly Libraries; and Donna Rice Hughes, Enough is Enough.

Commissioners present and participating in panels to question witnesses were, in addition to chair Jeanne Simon, vice chair Martha Gould, C. E. "Abe" Abramson, Walter Anderson, Rebecca Bingham, Joan Challinor, Jose-Marie Griffiths, Frank Lucchino, and NCLIS executive director Robert Willard.

As the first to testify and the only person on his panel, Andrew Vachss, an attorney specializing in child advocacy, set the tone for the hearing by vividly describing predatory pedophiles and sharing some of the materials he has found on the Internet defending their behavior. He labeled librarians' concerns about censorship as "the new McCarthyism." Vachss proposed eliminating interactivity from Internet service offered to children saying, "The greatest danger of the Internet to vulnerable children ... is the very real potential for enticement." His testimony was warmly received by many of the Commissioners who used his premises and proposals as the basis for much of their questioning for the rest of the day.

ALA President Ann Symons testified in the afternoon. She emphasized the need to promote access, quality, education and local control in order to help children have safe, educational and entertaining experiences online. She said: "The opportunity to work as partners with parents by teaching them to guide their children in using the Internet is one of the most exciting opportunities that librarians have today."

While other perils for children using the Internet were brought up, such as invasion of privacy and lack of access, exposure to inappropriate materials, people or pornography dominated the discussion. Many of the witnesses advocated local control and site based decisions, but also supported restricting children's access to a variety of materials and services available through the Internet. The ALA position on filters (which states that the use of filtering software abridges the "Library Bill of Rights") was criticized by several witnesses and Commissioners.

The public was given through December 10 to add to the record any information or viewpoint that might help the Commission in its endeavor to recommend practical guidelines for librarians and policy for the Administration and Congress. NCLIS executive director Robert Willard announced that the Commission expected to adopt a formal recommendation at its April 1999 meeting. Comments may be sent to the National Commission on Libraries and Information Science, 1110 Vermont Ave., NW, Suite 820, Washington, DC 20005-3522; fax: 202-606-9203; or e-mail: bw_nclis@inet.ed.gov.

APPENDIX C: WRITTEN MATERIAL SUBMITTED BY INDIVIDUALS

Entries appear in alphabetical order by the last name of the individual submitting comments, both here and in the Index at the back of this publication. In instances where no identification was provided except an e-mail address, that is used instead of a last name.

[NOTE: Documents submitted as paper copies have been scanned and reformatted, so the format may be different, but the content is as submitted, except that the Commission's address is omitted from incoming correspondence.]

1. Written Material Submitted by David Baker, Fredericksburg, Virginia

Electronic Mail From David Baker [david0@toast.net]

Date: Sunday, November 15, 1998

Subject: New "Nazism" of the Anti-Internet Crowd

I've just read a summary of the November 10th hearing of the NCLIS, and I was frankly astonished at the anti-Internet bias indicated by this quote-- Vachss proposed eliminating interactivity from Internet service offered to children saying, "the greatest danger of the Internet to vulnerable children is the very real potential for enticement." His testimony was warmly received by many of the Commissioners who used his premises and proposals as the basis for much of their questioning for the rest of the day.

The Commission seems to be letting itself be led by the nose by people who are more afraid of technology and information than the general public is. Recent news reports indicated that a Federal law enforcement task force investigating the issue of "enticement" of children via the Internet has uncovered only about 220 cases in the past 3 years. Given that there are 50 million or more Internet users in the country, that is infinitesimal. And testimony at the hearing clearly indicated that there are no known cases of children being enticed through library computers!

Children in America are much more likely to be exposed to violence, racism, and negative sexual experiences in the school yard than to encounter them through a library computer. Eliminating interactivity in web sites for children will absolutely destroy their value as educational tools for life and work in the next century. Mandatory filtering will produce a chilling effect on access to the knowledge that every American child will need to be successful in school and in life.

Since library computers serve those children who have the least access to technology in their homes, it will be poor inner city and rural children who suffer the most from any unnecessary restrictions on access to information. These are exactly the children who need learning opportunities and tools to overcome the barriers to their future success in a modern world.

I do think that it is rational to develop regulations that govern the way personal information is gathered from children, as well as how it is used and protected. However, those regulations should apply equally to telephone, mail, email, and all other modes of communication and to adults' personal information as well. The issue really isn't the Internet at all, but the astounding lack of appropriate laws and regulations that protect personal information of all Americans from misuse and abuse by all sectors of the economy or by other individuals. This lack is the reason that the European Community

is threatening to forbid EU businesses from sharing EU citizens' personal information with American businesses.

I think that the NCLIS should focus its attention on the BENEFITS of access to information and let the Federal Trade Commission and other regulatory and legislative bodies deal with privacy issues. And before making any recommendations that restrict the access of low-SES children to the educational resources of the Internet, the Commission should do the math on how many millions of children are benefiting from access versus how few, if any, have been put at any risk.

2. Written Material Submitted by Pam Barrick, Georgia

Electronic Mail From Pam Barrick [pbarrick@mindspring.com]

Date: Tuesday, November 24, 1998

Subject: Pornography Law Enforcement A Must

I am writing to urgently request that you honor the law which has been unanimously passed & supported by our government and all citizens with children (and others).

I am even now searching for an ISP which I and my son can use safely without unsolicited "trash" coming in to my home. The ACLU talks of some possibility of "pornographers rights" being violated, but who cares about OUR rights as caring, responsible parents and citizens to be able to use the Internet "responsibly" without being "conned into" salacious sights intentionally by pornographers or protect us from unsolicited trash e-mail which we can't even object to due to sender "blocks."

It has been proven time & again the type of behavior (murder, rape—see Ted Bundy) that pornography directly promotes and I would think it would be in the Justice Dept.'s best interest on behalf of the nation to stop this & uphold our law helping to arrest this.

I have changed ISP's three TIMES to avoid this and currently am still looking due to continued filth filtering in to my home against my and my family's will. Who will protect OUR rights?

It is my earnest and sincere prayer that YOU will by honoring the law. Thank you.

Pam Barrick
Georgia

3. Written Material Submitted by Scott Beecher, Tampa, Florida

Electronic Mail From Scott Beecher [scott.beecher@gte.net]

Date: Tuesday, December 1, 1998

Subject: Filter S/W [Software]

I think it would serve the community well to have blocking software (s/w) on library PCs. This is tantamount to a librarian not allowing children to look at pornographic material. If you will, we as adults do have moral obligations -- to our children and those in our community.

Let's work together to do what's right. Thank you.

Scott Beecher
Scott.beecher@gte.net
Tampa, FL

4. Written Material Submitted by Ron and Jan Boon, Hull, Iowa

Letter From Ron and Jan Boon

December 7, 1998

Please do all you can to block any access minors might have to pornography in public libraries and schools. Giving pornographic access can change the environment to a hostile, sexual harassing place. Thank you!

Ron & Jan Boon

5. Written Material Submitted by Brian Campbell, Reston, Virginia

Electronic Mail From Brian Campbell [campbell@cais.net]

Date: Monday, November 16, 1998

Subject: Internet Access for Children

I understand how many Americans want to have unlimited access to all that the Internet entails. In theory that sounds like a wonderful, egalitarian plan. However, just as we currently restrict many things from children such as alcohol, pornography, films with adult content, etc. (for what we have agreed is their own good), we should also place restrictions on Internet access for minors, at PUBLIC facilities. If a parent should choose to expose their child to the adult content on the Internet -- that is their choice, not the government's. And one hopes it is done under parental supervision.

The blocking software is becoming increasingly sophisticated. We can't protect our children from the violence, sex, and foulness of many of modern life's aspects but let's at least do what we can, where we can. Thank you.

Brian Campbell
Reston, Virginia

6. Written Material Submitted by Clshoep@aol.com

Electronic Mail From [Clshoep@aol.com]

Date: Sunday, November 29, 1998

Subject: Library Pornography

I would like to encourage your panel to do everything you can to protect children (and others) from pornography. Please block access to pornography at libraries. Thank you.

7. Written Material Submitted by Linnea Comstock, Olympia, Washington

Electronic Mail From Linnea Comstock [LCPTMPA@aol.com]

Date: Friday, December 4, 1998

Subject: Filtering Software

As many sites on the Internet are obscene and lewd, I would strongly recommend that filtering software be mandated for all public school and library Internet computers. This will help protect young children and impressionable teens (especially boys) from being exposed to pornography and violence. Exposure to porn and violence will desensitize children, leading them to view others as objects and not human beings.

Sincerely,
Linnea Comstock

8. Written Material Submitted by Maryjo Crachy, South Holland, Illinois

Electronic Mail From Maryjo Crachy [crachys@worldnet.att.net]

Date: Tuesday, December 8, 1998

Subject: Library Internet Filtering

To whom it may concern: My name is Maryjo Crachy, and I am very concerned about our children. It seems that no one will take a stand to protect our kids against possible harmful information. I realize that we live in a fast paced technology world but we cannot forget what it is like to be a curious child. We as adults know better and we know what is right and what is wrong. I hope and pray you will make the right decisions regarding America's children. Thank you.

Maryjo Crachy

9. Written Material Submitted by Laura Goergen, Chili, Wisconsin

Electronic Mail From Laura Goergen [grrgun@northsidecomp.com]

Date: Monday, November 30, 1998

Subject: Please Put Filters on Publicly Accessible Computers

Dear Commission: I completely support filters being placed on publicly accessible computers. I don't think that this should only be used while minors are using the computer, but when anyone is using it. If adults want to view pornography they can go to the store and buy it, access it from home (on their own computers, cable networks, etc.), go to a peep show, an adult bookstore, a strip club, etc., or even go to a local tavern that has video poker machines.

As a student at the University of Wisconsin - Stevens Point I see the porn sites almost daily on other students' computers in the computer lab and am very offended by this. I think that my tax money should be spent on improving people's minds, NOT destroying it with such filth.

Please know that there are many people in this country that disapprove of pornography and want to protect our children from it. I hope that you will do all that you can to make filtering a reality.

Sincerely,
Laura Goergen
Chili, WI

10. Written Material Submitted by John Harms, Tualatin, Oregon

Electronic Mail From John Harms [photojhh@usa.net]

Date: Tuesday, November 24, 1998

Subject: Comments to NCLIS Regarding "Kids and the Internet"

Jeanne Hurley Simon (and the rest of NCLIS) --

I was glad to hear reports of sanity at the National Commission on Libraries and Information Science "Kids and The Internet: The Promise and The Perils" open hearing on November 10, 1998 in Washington, DC.

However, I feel that the American Library Association (ALA) misrepresented their true position. ALA President Ann Symons, in her afternoon testimony, emphasized the need to promote access, quality, education and local control in order to help children have safe, educational and entertaining experiences online. She said: "The opportunity to work as partners with parents by teaching them to guide their children in using the Internet is one of the most exciting opportunities that librarians have today."

This stated position is not consistent with ALA actions, especially as it relates to local control and parental authority. Below, I include a copy of an op-ed I published in the Oregonian, our regional newspaper. It relates a local city council decision: to install pornography filters at the public library.

The ALA-influenced library community was the first to scream bloody censorship. The ACLU has threatened a lawsuit. So much for local control.

Both the ALA and the ACLU have gone on record saying that there should be no filters for any age, and that parents should not have anything to say about what their kids experience at the library (unless they hover over them every minute until age 18).

Please don't be fooled by the ALA rhetoric at the NCLIS open hearing. Their extreme views do not represent mainstream America. Our nation's local communities are desperate for help from the Government (e.g. the NCLIS) to fight off the ALA and the ACLU. We need to bring sanity back into the nation's local libraries. Thank you.

John Harms
Tualatin, OR

"It Takes a Village to Protect Kids from the Internet"

"It Takes a Village to Protect Kids from the Internet"

John Harms (photojhh@usa.net)

9-28-98

On September 14th, the Tualatin City Council took a courageous and controversial stand by requiring our library to install pornography filters on its public Internet terminals. This "astounding" decision was reported on the evening television news and in the Oregonian (9/15, 9/28) as "the Portland-area's strictest Internet use policy." The local Tualatin Times newspaper ran an editorial saying that the Council had made the wrong decision.

Excuse me, but what am I missing here? Why should it require "courage" to keep hardcore pornography out of the public library? Why is that supposedly controversial? Isn't it just common sense?

Who would be "shocked" by the fact that we don't want pornography in our public library? Answer: the American Library Association (ALA). The official ALA position is that children have a "right" to see any published material, including pornography. A result is that most public libraries have no filters or age restrictions on their Internet terminals. The ALA says their position is based on the Constitution's First Amendment, which states:

"Congress shall make no law ... abridging the freedom of speech, or of the press, ..."

But does this Amendment actually require libraries to distribute hardcore pornography to its patrons? To children? Of course not. "Freedom of press" does not compel the library to provide every book or magazine published. For example, no public library carries the hardcore Hustler magazine or Deep Throat video. In the same way, library officials are not obligated to provide access to every web site. A 1996 Supreme Court decision affirmed the right of libraries, schools, or any other organization to filter their Internet connections by upholding the Cox-Wyden portion of the Communications Act:

"No provider or user of an interactive service shall be held liable on account of (A) any action voluntarily taken in good faith to restrict access to or availability of material that the provider or user considers to be obscene, lewd, lascivious, filthy, excessively violent, harassing, or otherwise objectionable, whether or not such material is constitutionally protected; or (B) any action taken to enable or make available to information content providers or others the technical means to restrict access to material."

The ALA is well meaning, saying that one person's pornography is another person's art, and we shouldn't curtail a child's ability to "explore." Yet in this area the ALA fails the common sense test. As a society, we owe it to all children to protect them from hardcore material that the Internet can bring into the library. A good web filter keeps it out. The ALA claims that filters are bad since they "inevitably block legal and useful material" like web sites on breast cancer, AIDS, etc. This is simply not true of modern filters, which can be configured to keep out hardcore pornography while still letting "legal and useful material" through. See my web site <<http://www.teleport.com/~harmfam/Internet>> for details.

Unfiltered Internet terminals bring pornography into public libraries, as evidenced by library complaint logs, filter block logs, news reports, and personal observation. ALA guidelines say that no one should interfere in those cases, telling librarians in the ALA's Internet FAQ:

Q: What do I do when I find a child looking at sexually explicit information online?

A: Public libraries do not have policies that restrict the content or use of information provided by the library.

The ALA justifies its position by saying that a librarian shouldn't take the place of parents, who are ultimately responsible for protecting their children from exposure to inappropriate material. While technically true, parents cannot hover over their children every minute through age 18. It takes a village. What happens to the village when its local public library becomes a virtual adult bookstore?

Some libraries filter a few "children's" Internet stations but leave the "adult" stations completely unfiltered. While that's better than nothing, it seems similar to creating a "children's section" in an adult bookstore. Inappropriate Internet material brought up by adults on "their" terminals is still encountered by children in the library -- see my web site (address above) for specific cases. Anti-filtering activist Barry Steinhardt is quoted in CNET News, responding to a woman upset over her child downloading pornography at the library:

"If this woman objects to her child or children being able to access the Internet at the library, she should stop sending them to the library."

It's a sad commentary on our nation when caring parents are told to keep their kids away from the public library to avoid exposing them to pornography.

In the 9/15 Oregonian article on Tualatin's Internet decision, an area library director is quoted as saying, "We haven't had any difficulty" with an unrestricted access policy. But who can measure tomorrow's emotional impact from today's hardcore exposure? Would you want your daughter to date a boy whose attitudes about women have been warped by a steady diet of hardcore pornography?

Public libraries should not expose children to pornography. Period. That's simply common sense. I applaud Tualatin's leaders for exercising their common sense. The village children are too valuable to risk for the sake of a misguided ideology.

11. Written Material Submitted by Brian Hartman, North Arlington, New Jersey

Electronic Mail From Brian Hartman [bhartman@scils.rutgers.edu]

Date: Tuesday, December 8, 1998

Subject: Public Library Internet Access Policies

In conducting research for a presentation on Internet access policies in public libraries, one thing that struck me immediately was the ease with which a user could accidentally stumble upon a pornographic site. bambi.com, boys.com, girls.com and whitehouse.com are all examples of sites a child might innocently stumble upon. The frequently touted idea that since librarians are seldom confronted with these problems by children, it must not be that much of a problem, seems to me willful ignorance. A child stumbling upon that kind of site is not going to want to tell a librarian -- either out of embarrassment or because he/she is curious and wants to explore.

Having said all that, I think it's important for filters to advance technologically. Even some of the best filtering products are plagued by problems of being outdated on a daily basis, and contextual reading of keywords might be beneficial.

The research that I did concerning Internet access policies convinces me of two things: First of all, **not** having filters on children's computers is often more restrictive than having them, since libraries that have them frequently have user agreements that bar viewing "inappropriate" (whatever **that** means) materials, or they bar children from using the Internet at all without their parent's permission,

etc. The "Boston Solution" seems to me the best way to go about performing the public library's governmental role of protecting children while at the same time protecting the First Amendment rights of adults to view constitutionally protected (for them) materials. Thank you for your time.

Brian Hartman

12. Written Material Submitted by Lori Hartman, Scottsbluff, Nebraska

Electronic Mail From Lori Hartman [realestate@navix.net]

Date: Wednesday, December 9, 1998

Subject: Blocking Software in Libraries

Hi,

I would like to comment on blocking software for public libraries. I work in a small town library and oversee the Internet computers. We have children using these computers on a regular basis for school projects or just entertainment. Some of the children search out certain sites that would be considered pornographic by most parents. Others accidentally reach these sites while doing a normal search.

I believe that a library should be a safe place for children to learn. Many parents are not able to be with their children while they are at the library. It is IMPORTANT to provide an atmosphere that promotes learning. It is IMPORTANT to protect these children from unsolicited pornographic material. Parents entrust us to assist in the development of their children and children entrust us as role models. We must not BETRAY this trust.

Thank you for your time in pursuing this issue.

Lori Hartman
Scottsbluff, NE

13. Written Material Submitted by Matt Isaacs, Garden Grove, California

Facsimile Transmission From Matthew Isaacs

December 4, 1998

Matthew Isaacs
Garden Grove, CA

Dear Sir or Madam:

I am a parent with an Internet-connected computer in the home. As a responsible choice for our family, my wife and I decided to utilize a server-side filtered Internet service provider. Both for myself and my family, we wish to keep our sexual love within the confines of marriage.

Unfortunately, there are many cultural pressures to engage in sexual activity outside of marriage. From sex on TV, videos-on-demand in motel rooms – you name it – pressures bear upon those who wish to maintain marital faithfulness, for purposes of communicating love and faithfulness, as well as not infecting loved ones with sexually transmitted diseases.

My children are impressionable, gullible, curious, and sometimes foolish, as all children are. It is a commonly known fact that teenagers in particular are not only characteristically so, but that the gullibility factor of teenage girls makes them much more likely than older girls to fall for a sweet talking guy who only wants to use them, misusing the language of love to deceive. At an older age, women can spot such a “scheister” far more easily.

The last thing my children need is for someone in a taxpayer-funded library showing them hardcore and illegal stuff, or accessing it accidentally, which I am sure you know is overwhelmingly easy to do. In fact, if the libraries do not implement filters, it is clear that all laws restricting porn being shoved down unwilling participants throats will be struck down. Why would the legal community uphold a blinder law for porn magazine covers in a liquor or convenience store when pictures far more explicit are available at a taxpayer-funded library.

Obviously, it is way past time to stop forcing the expenditure of funds taken by force from the people by means of involuntary taxation to pay for material that in every other context or medium has been held to be illegal, certainly at least in the case of minors.

I am quite well versed in obscenity law, and I understand the important difference between harmful matter and obscenity. I also know that in California, any person who provides in any way any harmful matter to a minor, upon second conviction, is a lifetime sex offender who must maintain registration as such with the police jurisdiction in which they live. Such material could be provided, as stated explicitly in the law, by renting adult videos to a minor.

Given the state’s standard for harmful matter, and the severe punishment handed over to those who provide harmful matter to minors, it makes no sense for public library resources or personnel to act as an agent to do the same thing.

It is neither practical nor possible for at least one parent to be with each of his/her children at all times. Least of all should this be necessary in an institution of learning. I think it only reasonable to help that a publicly-funded institution provide a sufficiently legal forum that my children are not inadvertently exposed to harmful matter because of an accidental click of a button.

Finally, though it doesn’t need stating in reality, in the current whirlwind of propaganda floating around it does: pornography is basically not speech. Everybody knows that. It is viewed for the purpose of sexual arousal, which is physiological response, not an intellectual or cerebral process. It has only been marginally protected under the law as speech at its perimeter because the ancillary connection between speech that includes sexual content, and with that I wholeheartedly agree, since I am far more aggressive defender of speech than anyone I have ever met.

Sincerely,
Matthew Isaacs

14. Written Material Submitted by Lawrence R. Jensen, San Jose, California

Letter From Lawrence R. Jensen

November 30, 1998

Re: Kids and The Internet: The Promise and The Perils

Dear Commissioners:

U.S. National Commission on Libraries and Information Science

I am a member of the board of directors of the ACLU of Northern California. I write this letter on my own behalf, however, not on behalf of the ACLU.

I am adamantly opposed to government censorship in any form. This is supposed to be a free country, erosion of free speech rights is simply intolerable.

The whole anti-pornography agenda is based on a lie; there is no truth to the argument that viewing sexual activity is harmful to children. I challenge you to find any proof that viewing pornography is harmful to children.

For thousands of years, until modern times, most children, living on farms, routinely viewed animals copulating and lived in small one room abodes where, presumably, they were able to watch their parents have sexual intercourse. There is no evidence that this routine exposure to sexual activities harmed children in any way.

In Europe, hard core pornography is openly displayed in shop windows for all to see, yet the violent crime and rape rates are much lower there than in the USA. The situation in Europe today demonstrates that children are not interested in viewing pornography until they reach a certain level of maturity, and after that it still does not seem in the usual case to disturb them to view such materials.

I strongly urge you to consider the fact that sexual activity is as normal to the human condition as is eating and breathing. No special measures are required to prevent children from observing such activity, especially any measures that will, as a side effect, deny adults full access to all of the information available on the Internet.

Very truly yours,
Lawrence R. Jensen

15. Written Material Submitted by Jeffrey L. Jones, Carrollton, Texas

Facsimile Transmission From Jeffrey L. Jones

December 3, 1998

To Whom It May Concern:

I recently read an article about a Virginia court decision ending the debate on the use of Internet filters in Loudoun County, VA libraries. I live in the Dallas-Fort Worth area and similar debates are being held here.

Please understand that though I am not an advocate for the proliferation of pornographic material throughout America, I believe the industry has a right to exist. However, the public libraries in America, to my knowledge, have never been dispensaries for this type of material, nor should they become one.

I believe the introduction of the Internet to this public environment will enhance the patron's ability to research a vast number of topics and extend the library's effectiveness far beyond the limitations it had before the inception of the World Wide Web. However, in my opinion, this shouldn't force libraries into making pornographic material available just because it is available on the Internet. It seems to me, the library is not trying to become an Internet service provider, nor is it trying to censor

what we have access to. They are committed to helping the public access the plethora of information in our world, yet, leaving those materials designed to titillate in the commercial marketplace where age restrictions and morality judgments can remain between the pornography outlet and the individual customer.

I believe our public libraries shouldn't be forced into an either/or position. Please fight to keep the benefits the Internet brings to the library system and fight to keep those web sites, print and video materials designed for erotic stimulation, disseminated in the commercial marketplace where access is available to adults without encumbrance.

Thank you for your time.
Jeffrey L. Jones

16. Written Material Submitted by Russ Jones, Gowanda, New York

Electronic Mail From Russ Jones [labekk@earthlink.net]

Date: Friday, November 27, 1998

Subject: Filtering Software

I strongly encourage all libraries to use some form of filtering software or other means of monitoring children's activities on library computers. Children are exposed to enough distasteful literature without adding Internet porn and the likes to the list.

Sincerely,
Russ Jones
Gowanda, NY

17. Written Material Submitted by Mary Kerzich, Plainfield, Illinois

Facsimile Transmission From Mary Kerzich

December 10, 1998

To Whom It May Concern:

I am writing to express my concerns regarding minors access to pornography in public libraries and schools. I volunteer as a Media Center worker for my son's elementary grade school. We were assigned to instruct children during their use of the Internet.

I recall an incident where children were instructed to look up Olympic stars on the Internet since it was during the winter games just recently. A young third grade girl and her partner were trying to type in the skater, Katarina Witt. These innocent girls typed in the Katrina Witt, mistakenly leaving out the second "a" in Katarina's name. We were all shocked to see the listings for this search which involved a full page nude photo of someone named Katrina (with no "a") Witt. Included were listings to see Nude Celebrities Raw – Rare Celebrity PICS, any kind of pornography a person could see.

I would hate to see the implications of that very innocent "browsing of the Internet" had our public school not had the filtering software. Had these children been sitting in a library or school without supervision – well need I say more. I do want to add that even with 3 adults to watch the 10

computers set up, it would have been very easy for these children to have gotten to a screen which displayed such filth before one of the adults would have seen. I just so happened to have been standing behind these girls.

I am including a page of listings under the category search of Katrina Witt.²²

Please pass a law to block minor's access to pornography in public libraries and schools.

Sincerely,
Mary Kerzich

Also Submitted for the Record

Also submitted for the record, but not reproduced in this publication is the following item:

Copy of the results of a World Wide Web search, described above, using "katrina witt" as the search terms.

18. Written Material Submitted by Harry Kooyman, Grand Rapids, Michigan

Electronic Mail From Harry Kooyman [zekeflash@aol.com]

Date: Monday, December 7, 1998

Subject: Online Filtering

Greetings!

I do not believe that on-line filtering is necessarily a good thing. I believe that between parents and servers an arrangement can be reached re: online filtering for the individual. I believe that the government should NOT impose any laws regarding online filtering.

Thank you!

19. Written Material Submitted by Glen T. McGorty, Cedar Park, Texas

Electronic Mail From Glen T. McGorty [floridarus@juno.com]

Date: Sunday, December 6, 1998

Subject: Blocking Internet Access

I understand the National Commission on Library and Information Science is considering input on the issue of filtering Internet sites in our nation's libraries. I would exhort the panel to consider such filtering schemes so as to provide an environment free from sleaze, degrading of women and misconceptions that will be with them as they enter their adult lives and marriage.

²². The attachment is not included in this publication.

Unfortunately, the affects of pornography aren't solely absorbed by those who are exposed to this filth. I mention Ted Bundy, a man who at the end of his life fully explained the affects that it had on him. There are many more in prison today that could testify to this as well.

Please hold firm on this issue.

20. Written Material Submitted by Jackie McTaggart, Clifton, Illinois

Electronic Mail From Jackie McTaggart [MSEDI@aol.com]

Date: Wednesday, December 2, 1998

Subject: Blocking Software

I support the proposal to have blocking/filtering software on "public" computers. As a person with some electronic commerce experience, I know how easy (truly, truly easy!!) it is to access questionable and/or pornography sites. I support the initiatives that family groups are requesting.

21. Written Material Submitted by J. B. Mixon, Jr., Roanoke, Virginia

Electronic Mail From J. B. Mixon, Jr. [jbmixon@us.ibm.com]

Sent: Tuesday, December 8, 1998

Subject: Input on Internet Filtering

Dear Committee:

I am writing to strongly encourage you to support a policy that requires Internet filtering on any computers used by minors in our nation's libraries.

As a professional in the computer industry and the father of 2 children, I am very concerned about the trash and filth that anyone can see on the world wide web, simply by typing a few key words into a search engine.

We must act to keep the pornographers away from our children. Internet filtering software will do this. We need to implement a strong policy immediately.

Sincerely,
J. B. Mixon, Jr.
Roanoke, VA

22. Written Material Submitted by Mark Nadel, Washington, DC

Electronic Mail From Mark Nadel [MNADEL@fcc.gov]

Date: Tuesday, December 8, 1998

Subject: Filtering Internet Access at Public Libraries

I have attached a law review article that I have written (in a WordPerfect 5.x for Windows file that should also open easily in Word 97) on what constraints the First Amendment places on the use of filters by public libraries.²³

The article is 25 pages, including a 1-paragraph abstract and table of contents. I hope that you will find it engaging and convincing. I have begun submitting for publication to law reviews.

Officially, I am an attorney at the FCC, but this piece represents my personal views and was done on my own time. It does not necessarily represent the views of anyone else at the FCC. I have also written 5 other law review articles on First Amendment and media access issues. I can be reached during the day at 202-418-7385.

Mark

The First Amendment's Limitations on the Use of Internet Filtering in Public and School Libraries

Abstract: This article asserts that the First Amendment permits libraries to use private-sector software to filter Internet access as long as the filters do not attempt to discriminate against offending viewpoints. It contends that librarians may use filters to ensure that patrons can use the library's limited resources -- computer terminals and Internet links -- to gain easier access to the categories of content that the librarians choose to include in their collections. Thus, libraries may seek to maximize terminal availability for "research" by blocking access to web sites that do not offer the kind of content that the library chooses to offer, e.g., shopping services, play-by-play updates of sporting events, etc. Libraries may also use filters to empower parents to diminish their children's access to adult material. It appears, however, that the First Amendment requires libraries using filters to 1) retain "final say" over selection decisions, 2) know the criteria that the filter uses to exclude content, and 3) have the resources to correct the viewpoint discrimination that filters are likely to generate.

Also Submitted for the Record

Also submitted for the record, but not reproduced in this publication is the following item:

Draft of a law review article, abstracted above, entitled "The First Amendment's Limitations on the Use of Internet Filtering in Public and School Libraries.

23. Written Material Submitted by Galen Nelson, Boston, Massachusetts

Electronic Mail From Galen Nelson [gnelson@tiac.net]

Date: Monday, November 23, 1998

Subject: Software Filters in Public Libraries

I am writing to register my deep concern about the possible installation of "software filters" on public library web surfing computers. I am absolutely opposed to such filters for the following reasons:

^{23.} The draft article, dated December 2, 1998, is not reproduced in this publication, but the abstract is included below under the title "The First Amendment's Limitations on the Use of Internet Filtering in Public and School Libraries."

- 1) Filters are a potentially unconstitutional regulation of free speech.
- 2) Filters have been found to block important and sometimes lifesaving information re health conditions, family support systems, and other harmless but valuable information.
- 3) Parents, not the government, should decide what their children can or cannot see on the Internet.
- 4) Concerns raised by religious conservatives that these filters will "protect" their children are bogus: a) Information does not harm children. b) If those parents were so concerned about their child's welfare while surfing the net, they would spend more time with their children and supervise their use.

Thank you for your consideration and accepting these public comments.

Galen Nelson
Boston, MA

24. Written Material Submitted by Annette Neumann, Temperance, Michigan

Letter From Annette Neumann

December 4, 1998

To Whom It May Concern:

I am appalled to think that my tax dollars can be used for minors or adults to use the computer systems in libraries to gain access to pornography.

Libraries are historically known for their endeavors toward increasing one's reading capabilities as well as the scholarship activities they promote. This is all done in a quiet, non-threatening atmosphere.

The people who have decided to allow this (access to pornography) to go on are truly either ignorant or just plain militant. The founding fathers never intended the constitution to be misinterpreted to the extent that it has nor for it to be twisted in such a manner as to lead to the moral, spiritual, and ethical demise of the United States of America.

If you persist in allowing such degrading and offensive material to be accessed from libraries you should be ashamed of yourselves.

For my part, I shall certainly not vote for any future millages to be passed for our libraries if this is how my tax money is to be spent.

Sincerely,
Dr, Annette Neumann
Temperance, MI

25. Written Material Submitted by Merl Nielsen, Phoenix, Arizona

Facsimile Transmission From Merl Nielsen

December 3, 1998

I strongly feel pornography of any type should not be allowed in any public school or library. These places are for good quality reading and learning – building quality lives, not moral degradation.

Please keep it out!

Thank you,
Merl Nielsen

26. Written Material Submitted by Fred and Kathy Pfeil, Woodbridge, Virginia

Electronic Mail From Fred and Kathy Pfeil [PFEILF@ONR.NAVY.MIL]

Date: Friday, December 4, 1998

Subject: Blocking Access to Pornography in Public Libraries and Schools

I have two children, now teenagers, and have used blocking software throughout the time we owned a home computer. The two products used were Net Nanny and Cyber Patrol. They were invaluable to my wife and me in allowing our children the freedom to learn to be savvy using the World Wide Web and computers in general, yet protecting them from harmful information. In our culture, it is essential for youth to be computer-literate. It is also essential we allow our children to grow up free from as much of the negative influences we can. I don't buy the free-speech arguments of some. Those arguments may apply to adults, but it is in our society's best interests to shield our youth from unbridled and uncritical application of the same standards. Therefore, I urge you to recommend that blocking software be encouraged in all public libraries and schools.

Fred and Kathy Pfeil
Woodbridge, VA

27. Written Material Submitted by Jean Armour Polly, Jamesville, New York

Electronic Mail From Jean Armour Polly [mom@netmom.com]

Date: Tuesday, July 7, 1998

Subject: Kids and the Internet – from Net-mom

Dear Mrs. Simon:

I have read in *Library Journal* about the upcoming kids and the Internet hearings you may have in October. I applaud NCLIS for taking testimony on the spectrum of views.

I am the author of the best-selling book, *The Internet Kids & Family Yellow Pages*, which contains over 3,400 engaging and compelling Internet resources. I'm currently writing the third edition, which will be an exciting Internet safety toolkit for families, containing not only a completely updated and

revised book but also a CD with Internet tutorials, Internet games, Disney's Daily Blast software, Bandai's Surf Monkey (pending), and filtering software demos. It will be released by Osborne McGraw-Hill in September.

I would be happy to send enough copies of the current second edition to NCLIS for distribution to commissioners, if you think they would be interested (and later, third editions if you'd like). Where should I send them? I am happy to DHL a book to each commissioner's office if you would give me appropriate addresses. Each book is almost 600 pages and weighs 4 pounds.

Although I was a public librarian for 16 years, and one of the very first librarians to encourage use of the Net in PLs (1991), I now find myself at odds with ALA's policies.

It's a complicated issue, but I think libraries should be compelled to provide a best effort to prevent access to and upload of illegal material, in particular child pornography. I don't believe governments or local entities should be enabling a conduit for illegal activities, whether child porn, gambling, or drugs and/or firearms sales. It's a conviction I personally have, and after a year or so of trying to talk about this on the library listservs and the library speaking circuit, I no longer feel it's productive for me to try to sway ALA people to my view, or even to defend my view in public. I weary of being called a censor and labeled part of the religious right.

Instead I have turned all my energies to helping kids and parents, and enhancing and extending home use of the Net. Still, perhaps NCLIS would be interested in my unique testimony.

I have attached my current resume.²⁴

Best Regards,
Jean Armour Polly

[Note: Net-mom is a Registered Service Mark of Jean Armour Polly.]

28. Written Material Submitted by Dale Prestage

Electronic Mail From Dale Prestage [DPrestage1@aol.com]

Date: Thursday, December 3, 1998

Subject: Filtering Software

My wife and I already receive email advertising Porn sites. This is the most disgusting display of trash I have ever seen. There is absolutely no artistic value, and I don't understand how anyone could think there is. We are responsible for our children and we don't want them exposed to this type of junk, accidentally or intentionally. We don't need our neighborhood kids that already are trouble, getting exposure to this stuff either.

Please recommend that filter software be put on all Public Library and school computers.

Sincerely,
Dale Prestage

²⁴. Ms. Polly's resume is not included in this publication.

29. Written Material Submitted by Mindy Reeves, San José, California

Letter From Mindy Reeves

December 2, 1998

I am very concerned about pornography being available to children in public libraries on the Internet today.

Libraries don't carry X-rated books, and they shouldn't allow X-rated materials on the Internet either.

I should be able to send my children to a public library and trust someone in authority is supervising them enough to keep them away from objectionable materials.

Sincerely,
Mindy

30. Written Material Submitted by Cumanda Rose

Electronic Mail From Cumanda Rose [vivalist@ameritech.net]

Date: Wednesday, December 9, 1998

Subject: Protecting Children from Porno

It is imperative that adults act responsibly and protect children from pornography on the Internet. The public library should be a safe place for all children. Parents shouldn't have to be worried their children may be exposed to such vile materials while out of the home. I was horrified to learn that young boys I know personally were exposed to pornography at our local library. If parents are given the responsibility to monitor their children's viewing of the Internet, then public institutions including libraries must assist in this effort by the use of filtering software and adult verification. All of us need to join together to protect our precious youth.

31. Written Material Submitted by Maribele Ruckman, Crete, Illinois

Letter From Maribele Ruckman

December 6, 1998

To Whom It May Concern:

As a pro-family supporter and concerned grandmother, I earnestly ask and desire to see software installed on every publicly-funded library and school computer in order to protect children in cyberspace.

Thank you very much.

Very sincerely yours,
Maribele Ruckman

32. Written Material Submitted by Jeff Schweiger, Stratford, Wisconsin

Electronic Mail From Jeff Schweiger [jksch@tzm@net.com]

Date: Wednesday, December 9, 1998

Subject: I-net Filtering

Thank you for addressing the enormous problem of pornography on the Internet. Please install blocks with the Internet access whenever possible. Even in our rural area of the public school we have had problems at the Elementary School level. Please do all that you can for protecting our children. Why not give them a healthy chance?

Thank you.
Jeff Schweiger

33. Written Material Submitted by Susan Sellers, Orland Hills, Illinois

Letter From Susan Sellers

December 6, 1998

To Whom It May Concern:

I am asking that you block all access to pornography to minors in public libraries and schools. Thank you for the opportunity to do so.

Susan Sellers
Orland Hills, IL

34. Written Material Submitted by Douglas R. Snow, Chelmsford, Massachusetts

Letter From Douglas R. Snow

December 4, 1998

I am writing in regards to invitations for public comments on access to pornography in public libraries. I am not a prude. I believe in civil liberties. But I do have children, and I believe that I have a right to protect them from damaging material.

Since we purchased our personal computer last spring I have learned how easy it is for young people to access the rankest material imaginable. I have seen it. It makes the stuff on the top shelf in the convenience store look tame. Search engines will turn this stuff up even with innocuous searches. Our right to protect our young people must override the freedom to view this material. Please, do not quibble about technology or how "hard" is "hardcore." Take an active role. Pornography is not about searching the truth. It is not about enlightenment. It is about degradation, about giving in to things that debase us. If we cannot agree on this as a society, then we do not deserve to be free.

Sincerely,
Douglas R. Snow, Ph.D.

35. Written Material Submitted by the Stout Family

Facsimile Transmission From The Stout Family

Date: December 8, 1998

RE: Blocking minors' access to pornography in public libraries and schools

We would like to encourage a clean public for our children to roam freely in. Sexual misconduct is constantly thrown in the face of our children in grocery lines, card shops, television, news, the Internet and now the White House. We try very hard to protect our children from such information, in fact, they don't want to be bothered with it. However, hard as we may try, it seems more and more difficult to protect them.

Sexual acts used to be private and should continue to be. Sexual misconduct (any sex outside of a loving marriage) is self destructive not only to individuals but also to families and the nation. This is not our opinion; it is fact to anyone who dares to truthfully look into the history that has led to the deterioration of our families and nation.

Please keep our public libraries clean. Adults may have the right to see pornography but as the Apostle Paul said, "Everything is permissible for me—but not everything is beneficial."

36. Written Material Submitted by Denis Sullivan

Electronic Mail From Denis Sullivan [deniss@nac.net]

Date: Tuesday, November 24, 1998

Subject: Internet Filtering in Libraries

I hope you take all measures necessary to ensure that the Internet remains uncensored in the public libraries. It is very unfortunate that a small group of very loud religious extremists has adopted the goal of filtering adults' access to Internet sites in order to "protect children." Their goal, of course, is to restrict the entire public's access to any and all points of view with which they disagree.

I am using an email link to your site provided by Focus on the Family, whose own site I monitor for a certain civil liberties organization. The folks who run Focus have been encouraging their members to write you with their pro-censorship comments; as a lover of irony, I thought it would be fitting to use their facilities for this communication.

Yours very truly,
Denis Sullivan

37. Written Material Submitted by Mark P. Sullivan

Electronic Mail From Mark P. Sullivan [msulliva@guinness.cs.stevens-tech.edu]

Date: Thursday, December 10, 1998

Subject: Re: Child Safety on the Internet

I would like to offer my views on the NCLIS investigation into "Kids and The Internet: The Promise and The Perils."

Please let me emphasize the importance of considering the long-term effects of any policy. While sheltering vulnerable children from "perilous" material available through the Internet will immediately save them some distress, sheltering children not only denies them access to potentially useful information, but it denies them a significant opportunity to develop the maturity and responsibility that is vital to any citizen.

Ann Symons has made important points on the role that parents must play in their child's development. As with tours of the city, broadcast programming, dinner conversations, books on the living room shelf, and access to the library's books, the parents must make decisions regarding what the child is exposed to. With the availability of vast amounts and types of information available electronically, the parents' capacity as tutor and guide has only become more important.

I do recognize the existence and potential danger of material and people accessible through the Internet, but the too often missed fact is that these are not nearly as ubiquitous as they have been made out to be. One must consciously pursue them to have any reasonably considerable chance of encountering anything destructive.

Another misconception is that installing a filter on a library's computer will prevent all users from accessing all "evil" content. Filters that act on a stored list of "evil" sites can never be updated fast enough; filters that act on keywords are not nearly intelligent enough to recognize and block evil intent, nor are they intelligent enough to let pass informative content related to worthwhile personal issues (such as breast cancer, rape prevention, sexual responsibility, etc.).

Though Andrew Vachss may warn of "the new McCarthyism" in librarians' concerns about censorship, beware too the McCarthyism of cries of "Don't you care about our children?!" being used to justify undefined or impractical legislature. As always, consider rationally the end result of potential actions to the best of your ability.

Also, please do give sufficient attention to children's privacy. Proper protection of children's privacy would hamper the efforts of pedophiles and unscrupulous businesses alike. Of course, the issue of on-line privacy is still being explored on many fronts; I hope that you are able to set a strong precedent for the protection of everyone's privacy.

I found out about the NCLIS investigation through Benton Communications-Related Headlines. You can find information about them by sending email to: listserv@cdinet.com. In the body of the message, type only: subscribe benton-compolicy Your First Name; Your Last Name

There is no use trying to make ideas safe for students. You have to make students safe for ideas. --Stokely Carmichael

38. Written Material Submitted by Debbie Tomlinson, Grafton, Ohio

Electronic Mail From Debbie Tomlinson [ericks_mom@yahoo.com]

Date: Saturday, November 28, 1998

Subject: Filters on the Internet for Public Libraries

I don't have experience using a filter (yet) since my child is only 5-1/2 years old. Very soon however I will have to look into it.

Based on my OWN experience on the internet, I am well aware of the dangers of exposing and tempting children and teenagers into a dark world. I've run into teaser pages quite by accident on several occasions. All you have to do is search on an animal and you've got a naked lady on your screen and a button to click on. What 13-year-old boy can turn away from that if no one is looking over his shoulder? Even a moral child doesn't understand the consequences to his life. Especially if something horribly violent or child pornography is viewed. You can't undo what has been done. Please keep that in mind.

I think all libraries should have filters. If someone wants to view pornographic or illegal material, they can buy their own computer or go to the places that most folks don't want in their neighborhood. That is not a civil right, it is the free will of an ungodly person.

39. Written Material Submitted by Carrie E. Vasko, Shoreline, Washington

Letter From Carrie E. Vasko

December 2, 1998

Dear Commission Members:

I respectfully request that pornography-filtering software on all public-use Internet terminals be required equipment in libraries across this country in every country. We are obligated to not only protect our youth in public libraries but to also maintain an atmosphere and environment in the library which is conducive to study and learning, and free from possible sexual harassment or unwelcome sexual advances.

Thank you.
Carrie E. Vasko
Shoreline, WA

40. Written Material Submitted by Robin Washam, Galena, Missouri

Electronic Mail From Robin Washam [josaro@tri-lakes.net]

Date: Thursday, December 3, 1998

Subject: Comment on Filtering

I read that you were taking comments on the possibility of filtering the computers in public libraries. I believe it is not only a good idea, but a necessary step. I have a computer at home and one child living here. My son has run into pornography, very innocently, on two separate occasions. I know it was done innocently because I was in the room with him when it happened. On one occasion he was looking for game cheats for Super Nintendo and typed in www.cheats.com, thinking that would give him cheat hints. The other time was when he was looking for pictures for his web page and typed in www.gifs.com and pornography began to load into our machine. Luckily he was able to push the stop button before the pictures popped up, but the words alone were enough to shock anyone not used to that smut. We did learn our lesson from that, not to type in unknown addresses, but not everyone

knows that. Many innocent children will be harmed and violated if there are no filters placed to keep these things from happening; let alone the adults who don't want to view objectionable material. Believe it or not, not everyone likes that freedom. We now have a filtering system on our computer through our server. It doesn't catch 100% of the porno, but it is probably the best that can be obtained for now. Please help to protect the innocence of the children using the public computer for hopefully higher purposes than finding smut.

Thank you.

41. Written Material Submitted by Cedricia Wilson, Jackson, Alabama

Letter From Cedricia Wilson

November 15, 1998

Ladies and Gentlemen:

It has been brought to my attention that your commission is seeking public input concerning filtering software for public libraries in order to protect minors from Internet pornography. I do beseech you to make a strong case in favor of this filtering software.

My concern for minors in the public library began over 6 years ago. I was the library coordinator in the small town of Jackson, Alabama, when it was brought to my attention that young children were checking out sexually explicit books (enclosed is an article that details the information). Even with the information from the Rutherford Institute of Alabama, Inc. stating that the ALA's Bill of Rights "is simply a statement of someone's desires or beliefs, it carries no legal weight at all" and Opinion 93-00162 from our Attorney General issued on March 4, 1993 stating that "the library should be particularly concerned with the protection of children in their minority and their parents' right of involvement," our group was attacked as censors. In the local paper, we were compared to Hitler and his regime. In later articles I was referred to as "the librarian" and our minister even told us we should back off because of the terrible things that were being spread about me.

The right to have a legitimate public debate was being turned into character assassination, yet those opposing us had worked extremely well with us until this matter appeared. Is this letter a "poor me" letter? Absolutely not! This is but a taste of the opposition we are up against merely to protect minors from pornography and let parents have a say – "Government of the people, by the people and for the people." May your committee be strong enough to stand for what is best for our children and keep standing against the strong intimidation that will follow.

Also enclosed is a follow-up article that illustrates that liberal librarians do censor. We conservative librarians do not want censorship – just protection for our children. Please help us to do this.

Sincerely,
Cedricia Wilson

Librarians Censor *Citizen*

October 3 marked the end of Banned Books Week. The event, sponsored by the American Library Association (ALA) highlighted supposed "censorship" incidents – including efforts to keep materials off of library shelves. The ALA portrays librarians as the nation's guardians of intellectual freedom, not bound by any political or philosophical persuasion.

But just how "neutral" are the ALA and its members? While surfing the Internet, we stumbled across a revealing newsgroup exchange between librarians, in which a staff member of the Comstock Township (Mich.) Library solicited some advice as to how best turn down a magazine subscription that a patron had offered to donate. The publication? *Focus on the Family Citizen*. "[*Citizen*] seems to be very extreme in its views on abortion, welfare, television and advocates abstinence-based sex education," the librarian wrote. "I would like to ... decline his offer of the subscription. Any suggestions as to how I should do that?"

The ALA's own Bill of Rights mandates that "materials should not be excluded because of the ... views of those contributing to their creation," and adds that "libraries should provide materials ... presenting all points of view. Materials should not be proscribed ... because of partisan or doctrinal disapproval."

One librarian posted a response insisting that *Citizen* should be allowed on library shelves. "This magazine is influential and represents a viewpoint that should be available within the public library," he wrote.

Others, however, were not so quick to defend a troublesome magazine.

"Just say, 'We don't subscribe to right-wing reactionary rags,'" wrote one.

Another suggested that the library distance itself from *Citizen's* viewpoints by affixing issued with labels stating they were donated and include the name of the donor.

Perhaps this librarian forgot ALA policy against labeling: "libraries do not advocate the ideas found in their collections. Labeling is an attempt to prejudice attitudes and as such, it is a censor's tool."

No word on the libraries decision. —Tom Hess [*Focus on the Family Citizen*, October 1998]

Also Submitted for the Record

Also submitted for the record, but not reproduced in this publication is the following item:

- *Focus on the Family Citizen*, Volume 9, Number 9 (September 128, 1995) including the following articles by Scott DeNicola: What Lurks in the Library? The American Library Association believes that children should have access to *all* material, no matter how violent or obscene; Censorship! or blowing smoke? A citizen investigation shows that ALA's annual "Banned Books" report is missing one thing: the facts; and Classroom horror stories

42. Written Material Submitted by Lue Woodul, Saint Louis, Missouri

Letter From Lue Woodul

December 2, 1998

Dear Friends:

I understand you are accepting public comment on recommendations for blocking minor's access to pornography in public libraries and schools. My husband and I BEG you to do all you can to get this porn Outlawed. We would like to see such shows as "Dungeons and Dragons" outlawed also.

God Bless you. Our prayers are with you.

Sincerely,
Lue Woodul

What can we do?

43. Written Material Submitted by Geneva York, Jackson, Alabama

Letter From Geneva York

November 12, 1998

Dear Mrs. Whiteleather:

I am a former librarian, and care deeply about the environment of our public libraries, and their availability to our children and grandchildren. Our local library has about 5 computers that are available for public use. Please, please work hard to support blocking devices for minor children's access to Internet. I know I speak for the silent majority in desiring this positive step in protecting the innocent.

Thank you for all you will do in this matter.

Sincerely,
Mrs. Geneva York

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