

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL AND STATE AFFAIRS.

The meeting was called to order by Chairperson Bill Mason at 1:40 p.m. on March 18, 2003 in Room 313-S of the Capitol.

All members were present except: Representative Edmonds - E  
Representative Cox - E

Committee staff present: Russell Mills, Legislative Research Department  
Mary Torrence, Office of Revisor of Statutes  
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee: Senator Anthony Hensley  
Representative Deena Horst

Others attending: See Attached

**SB 205** - An Act enacting the Kansas commemorative coin design concept act

Staff explained the purpose of the bill was to provide a method to select the design concepts and make a recommendation for the final design of the commemorative quarter dollar of the State of Kansas. The fiscal note is \$9,300, which includes the cost of a ballot election, If the election were conducted via the Internet, some of that amount would be eliminated.

Senator Hensley explained the 50 state quarters program is a 10-year initiative to commemorate the history of our nation(Attachment 1). The Kansas quarter is scheduled for release in 2005. The Senate amended the bill to bring it into compliance with recommendations made by the U.S. Mint. The design sketch is to be submitted to the Mint on or before June 30, 2003. Although that is a short time frame to complete the project, the Mint sets those dates and he was unsure if there was any flexibility.

He described the process that Governor Bush used in selecting the Florida design. The Senate has recommended that the election be done, via the Internet to hold down the costs. **SB 205** offers the method for choosing the Kansas quarter from 5 designs. High school students approaching the voting age would participate in a statewide election, the last week of April, 2004 at school. Due to the publicity on the project, many artists already have designs ready to submit.

Representative Horst, Chairperson of the Joint Committee Arts and Cultural Resources, offered suggestions for numerous changes to the bill (Attachment 2). She stressed the importance of one member of the Kansas commemorative coin design commission being knowledgeable of coin design or metal work. This is a change from skilled to knowledgeable, due to the perceived difficulty of finding someone in Kansas, to serve on the sixteen member commission, that would be skilled in coin design.

Discussion followed regarding the criteria for entry of designs, why only high school students would vote and a process that would include home-schooled students.

An article titled *Dangerous Access*, an excerpt from *Dangerous Access, 2000 Edition; Uncovering Pornography in America's Libraries* was distributed at the request of Representative Hutchins (Attachment 3).

The meeting adjourned at 2:15 p.m. with the next meeting scheduled for March 19, at 1:30 p.m., in room 313 S, at the Capitol.



Senator Hensley's testimony in support of Senate Bill 205

Chairperson Mason and Members of the Committee:

Thank you for the opportunity to testify in support of Senate Bill 205. This legislation would establish a process for the design concept of the Kansas Commemorative Quarter as part of the U.S. Mint's 50 state quarters program.

The 50 state quarters program is a 10-year initiative to commemorate the history of our nation. Beginning in 1999, the program mints 5 new quarters per year, honoring the state in the order in which they joined the Union. The Kansas quarter is scheduled for release in 2005.

The state quarters have already become a popular item among coin collectors of all ages. The design should reflect the unique history and culture of the states it honors. In learning about the quarters, our children also learn much about the states. Senate Bill 205 sets in motion a process by which the people of Kansas become involved in the design of their commemorative quarter.

This bill would establish the Kansas Commemorative Coin Design Commission, which would solicit designs from Kansas citizens in the state and select five designs to be forwarded to the United States Mint. The final choice among the five designs would be left to an election of high school students during the final week of April 2004. The election would be run under collaborative efforts of the Kansas Secretary of State and the State Board of Education.

We are fortunate to have many talented citizens in our state. The proposal would draw on their talents to depict our Kansas heritage. We should call on these Kansans to be participants in the process.

It is also important to include our high school students in the decision. It is a great way to get our students involved with government. Their decision would actually have significant meaning. By allowing Kansas students to make the final decision, we would be giving them the ability to have a tangible impact upon public policy. This is a logical way to reinforce the message to our young citizens that voting is an important civic responsibility.

I believe Senate Bill 205 offers a thoughtful approach for choosing the Kansas quarter. I hope you recognize the spirit behind this proposal and develop a plan that ensures an open process for our quarter design. Suggestions for improving the proposal are most welcome.

I believe this proposal achieves three goals:

1. It reflects the populists values and traditions of the people of Kansas. No one person or no secret committee should select the design concept that will portray Kansas to the rest of the nation. The proposal establishes an open and transparent process;
2. It recognizes the role of artists in public displays of culture and history. We want Kansas citizens to be key participants; and
3. Most importantly, the proposal would use the Kansas Commemorative Quarter as an educational project. Students approaching the voting age would participate in a meaningful election process and make a significant decision. It would be an active learning exercise on voting.

I ask for your support of this proposal, with any improvements you find necessary. Let's get something started and a process defined before time runs out.

Thank you for the opportunity to express my support for Senate Bill 205.



**FOR IMMEDIATE RELEASE**  
WEDNESDAY, FEBRUARY 12, 2003

**CONTACT: ELIZABETH HIRST**  
(850) 488-5394

## **GOVERNOR BUSH ASKS FLORIDIANS TO VOTE**

### **FOR FLORIDA'S QUARTER**

*~Residents encouraged to vote via the Internet~*

**TALLAHASSEE** -- Governor Jeb Bush today voted for his favorite Florida quarter design, kicking off the beginning of a three-week Internet voting period. Governor Bush will be reaching out to Florida's teachers, school children, residents and visitors alike to take part in choosing the design that will grace the back of the Florida quarter.

"The response to this program has been amazing, and no matter which design ends up on the back of our quarter, Florida will have the best state coin," said Governor Bush. "The final five designs have captured the true images of our diverse state, from its past and future to its natural and historical treasures. I hope that all Floridians will take the opportunity to vote and be part of this once in a lifetime process."

The voting period began today, February 12, 2003, at 9:30 am, and will end on March 5, 2003, at 9:30 am. The public will be able to cast their votes by visiting the state's [www.myflorida.com](http://www.myflorida.com) website. Residents who do not have access to a computer can still cast their vote by utilizing computers and Internet services that are available free of charge at their local library. Votes can also be mailed to the Governor's Office of Citizen Services, The Capitol, Tallahassee, Florida 32399.

The design that captures the most votes will be submitted to the United States Mint for circulation. The Mint issued the first five state quarters under the Fifty State Quarters ® Program in 1999, and will continue to issue five quarters every year in the order in which the states ratified the Constitution or were admitted into the Union. In 1845, Florida became the 27th state to be admitted into the Union. Each quarter's reverse side will celebrate one of the 50 states with a design honoring its unique history, traditions and symbols.

Governor Bush encouraged Floridians last year to submit their unique design for the Florida quarter. The guidelines from the U.S. Mint stated the design concepts could include landmarks, landscape, and historical buildings, symbols of state resources or industries, official state flora and fauna, icons and outlines of states.

More than 1,500 designs were submitted, but only five designs were selected by the Florida Commemorative Quarter Committee (Committee) and forwarded to the Mint. The Committee was created by an Executive Order issued in April 2002 by the Governor. The Committee was comprised of nine members, appointed by the Governor, reflecting Florida's diverse cultural, geographical, and artistic backgrounds.

The five final designs being considered are as follows:

- "The Everglades," showcasing a great white heron standing in the Florida Everglades surrounded by sawgrass.

- "Gateway to Discovery," highlighting Florida's past with a Spanish Galleon and Florida's future with a rendering of a space shuttle.
- "Fishing Capital of the World," depicting a sailfish found in Florida's waters.
- "St. Augustine: Oldest United States City," featuring the Castillo De San Marcos National Monument that was built from 1672-1695 as an outpost of the Spanish empire to guard St. Augustine, the oldest city in the United States.
- "America's Spaceport," featuring a space shuttle superimposed over an outline of the state and surrounded by 27 stars signifying Florida as the 27th state admitted to the Union.

The Mint is expected to circulate the Florida quarter in spring 2004.

To view the five designs and to cast your vote, log onto [www.myflorida.com](http://www.myflorida.com). Results of the vote will be updated each week and the design receiving the most votes will be announced early next month.

###

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# Florida Commemorative Quarter

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The votes for the Florida Commemorative Quarter design have been collected and tallied. We would like to thank everyone for participating, your input has been very important.

The winner is "Gateway to Discovery", designed by Ralph Butler of Bayonet Point. (See the final breakdown below). For a larger view of the designs and description, click on the images of the coins.

Once again, thank you for participating in the Florida Commemorative Quarter design selection. You have helped make this a great success!

WINNER!



123,515



104,838



92,667



69,029



34,297



# Florida Commemorative Quarter

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The design incorporates a 16th-century Spanish galleon and a space shuttle. A strip of land with sabal palm trees is also depicted. The coin includes the inscription GATEWAY TO DISCOVERY.

[Back](#)

Date: Fri. 2-28-03

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|---|--|---|
| <input type="checkbox"/> Topeka Capital Journal | <input type="checkbox"/> Hays Daily News           | <input type="checkbox"/> Leavenworth Times      |
| <input type="checkbox"/> Wichita Eagle          | <input type="checkbox"/> Hutchinson News           | <input type="checkbox"/> Manhattan Mercury      |
| <input type="checkbox"/> Kansas City Star       | <input type="checkbox"/> Iola Register             | <input type="checkbox"/> Olathe Daily News      |
| <input type="checkbox"/> Chanute Tribune        | <input type="checkbox"/> Johnson County Sun        | <input type="checkbox"/> Parsons Sun            |
| <input type="checkbox"/> Dodge City Daily Globe | <input type="checkbox"/> Junction City Daily Union | <input type="checkbox"/> Pittsburg Morning Sun  |
| <input type="checkbox"/> Emporia Gazette        | <input type="checkbox"/> Kansas City Kansan        | <input type="checkbox"/> Salina Journal         |
| <input type="checkbox"/> Garden City Telegram   | <input type="checkbox"/> Lawrence Journal World    | <input type="checkbox"/> Winfield Daily Courier |

# Approve quarter plan

Kansas is now one step closer to having its state commemorative quarter ready for distribution in 2005. As expected, the selection process has been a point of numerous discussions ever since the national project was announced.

Senate Minority Leader Anthony Hensley, D-Topeka, gained passage out of committee this week for a proposal that would allow high school students to make the final selection of the coin that will represent the state among the nation's commemorative collection. In recommending using older students, Hensley cited the value of educating them into the process of voting as well as his hope of instilling in them a sense of civic responsibility.

Additionally nice about his proposal is that all of the options presented to the students will have been chosen by a group of appropriately informed and talented adults, eliminating any concerns that the selected coin would likely appeal primarily to the under-20 crowd.

Of course, that doesn't mean that a high school student couldn't find his design on the back of the

quarter. The competition will be open to Kansas artists with the deadline on June 30. It's quite possible that a talented young person could find his artwork at the top of

## EDITORIAL

the stack. If that were the case, it's also possible that other students would rally in his or her support.

But as the finalist from Missouri has discovered, even when selected, the U.S. Mint — not the state — has final say. The process for our neighbor to the east has been contentious. The Mint made several changes to the selected design, proving that even the vote of Kansas high school students can be overridden.

While this piece of legislation is far from a done deal, it is well thought out and merits unanimous support from both parties and both houses.

(And for those who would like to see the minted and proposed quarter designs of other states, they can be checked out on the Internet at <http://www.quarterdesigns.com>.)

— Ann K. Charles  
Editor and publisher



91  
1-7

*Anthony Handley*

**LOT 1 - 1999**

**Delaware**



Depicted here is Caesar Rodney and his two day ride to Philadelphia. He was the decisive vote for American Independence.

**Pennsylvania**



The Pennsylvania Statehood Quarter portrays an allegorical female figure of Commonwealth.

**New Jersey**



A portion of an 1851 Lautze oil painting is pictured with Washington crossing the Delaware.

**Georgia**



The Georgia Statehood Quarter salutes one of the mainstays of the state: the Georgia Peach.

**Connecticut**



"The Charter Oak" is struck with fine detail on the reverse of the Connecticut Statehood Quarter.

**LOT 2 - 2000**

**Massachusetts**



The Massachusetts Statehood Quarter is adorned with the famous Statue of the Minuteman.

**Maryland**



The Old State House Capitol Dome is reserved in coin history on the reverse of the Maryland State Quarter.

**South Carolina**



The South Carolina Statehood Quarter honors the State's bird, trees and flower.

**New Hampshire**



The "Old Man of the Mountain," a natural rock formation, is struck on this New Hampshire Statehood Quarter.

**Virginia**



Virginia, known for the first English settlers, is shown with their ships: the Susan Constant, Godspeed and Discovery.

**LOT 3 - 2001**

**New York**



As the national symbol of freedom, the New York Statehood Quarter is adorned with the Statue of Liberty.

**North Carolina**



North Carolina honors the first flight with Wilbur and Orville Wright.

**Rhode Island**



The Rhode Island Statehood Quarter is depicted with a common site in the state.

**Vermont**



The Vermont Statehood Quarter is adorned with a depiction of one of their largest crops - maple syrup.

**Kentucky**



"My Old Kentucky Home" is pictured with a thoroughbred horse on the Kentucky Statehood Quarter.

**LOT 4 - 2002**

**Tennessee**



Featured on the Tennessee Quarter is a guitar, violin, sheet music and trumpet, reflecting its musical influence to American culture.

**Ohio**



Ohio features an early Wright Flyer and the Apollo-era Astronaut over an outline of the state.

**Louisiana**



Louisiana design shows a brown pelican and celebrates the Louisiana Purchase with an outline of the United States.

**Indiana**



The Indiana Quarter is adorned with an Indy Car superimposed over the state outline.

**Mississippi**



Two magnolia blossoms and leaves which signify the colorful pastures of Mississippi.





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## Mint Programs

### The Evaluation Process

#### Procedure

Stage 1. The Mint will contact the governor approximately 18 months prior to the beginning of the year in which the state will be honored to initiate the state design process. The governor will appoint an individual from the state to serve as the Mint's liaison for this program.

Stage 2. The state will identify and provide to the Mint a minimum of three and a maximum of five design concepts or themes emblematic of the state. The process for identifying concepts will be one of the State's choosing.

Stage 3. The Mint will review concepts for appropriateness and coinability. If fewer than three concepts are submitted, the Mint will develop additional concepts as necessary.

Stage 4. The Mint will produce drawings of all design concepts.

Stage 5. The Citizens Commemorative Coin Advisory Committee (CCCAC) will review drawings and recommend candidate designs.

Stage 6. The U.S. Fine Arts Commission will review candidate designs.

Stage 7. Candidate designs will be presented to the Secretary of the Treasury for review and approval.

Stage 8. The Mint will return approved designs to the governor for selection of the state design.

Stage 9. The state will select the state design through a process determined by the governor, within a time frame specified by the Mint.

Stage 10. Final design will be returned to Treasury for approval by the Secretary or his designee.

	Wisconsin	May 29, 1848
<b>2005</b>	California	September 09, 1850
	Minnesota	May 11, 1858
	Oregon	February 14, 1859
	Kansas	January 29, 1861
	West Virginia	June 20, 1863
<b>2006</b>	Nevada	October 31, 1864
	Nebraska	March 01, 1867
	Colorado	August 01, 1876
	North Dakota	November 02, 1889
	South Dakota	November 02, 1889
<b>2007</b>	Montana	November 08, 1889
	Washington	November 11, 1889
	Idaho	July 03, 1890
	Wyoming	July 10, 1890
	Utah	January 04, 1896
<b>2008</b>	Oklahoma	November 16, 1907
	New Mexico	January 06, 1912
	Arizona	February 14, 1912
	Alaska	January 03, 1959
	Hawaii	August 21, 1959

\* Mintage numbers are released the following year.

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Dec 18, 2002  
 [stwb1]

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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
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MEMBER: CORRECTIONS AND JUVENILE  
JUSTICE  
EDUCATION  
LOCAL GOVERNMENT

DATE: March , 2003

TO: Chairman Mason and members of the Federal State Affairs Committee

FROM:  Deena Horst, Chairperson of the Joint Committee Arts and Cultural Resources

RE: SB 205

As promised, I have provided the suggested changes as presented during the hearing. Also, I have added another change that I didn't bring to you.

As I read through the bill again, I discovered a gap between the time the coin designs leave the hands of the mint and the selection process by the high school students. To address this concern, I have added suggested language found on page 2, lines 17 through 19. I believe it would be a smoother operation if the State Board of Education and the Secretary of State were dealing with the commission rather than with five artists.

Thanks for your help with this bill!

Deena Horst

Attachment: (1)

Hs Federal & State Affairs  
Date: 3-18-03  
Attachment # 2  
Page 1

SENATE BILL No. 205

By Senator Hensley

2-11

AN ACT enacting the Kansas commemorative coin design **concept** act.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. This act shall be known and may be cited as the Kansas commemorative coin design **concept** act. The purpose of the act is to provide a means whereby the state through cooperation of its governor, arts community and high school students selects the **design concepts and recommends the final** design of the quarter dollar that is emblematic of the state of Kansas, its history, geography and rich heritage for submission to the United States secretary of the treasury in accordance with the 50 states commemorative coin program act (P.L. 105-124).

Sec. 2. (a) There is established the Kansas commemorative coin design commission. The commission shall consist of 16 members, as follows:

(1) The members of the joint legislative committee on the arts and cultural resources;

(2) a member of the Kansas state historical society, selected by the members of the society;

(3) a member of the Kansas arts commission, selected by the members of the commission;

(4) a member of the Kansas humanities council, selected by the members of the council; and

(5) three members of the general public who shall be representative of the arts, selected by the governor. **One of the members selected pursuant to this paragraph shall be** ~~skilled in~~ **coin design or metal work.**

[knowledgeable of]

(b) The chairperson of the joint legislative committee on the arts and cultural resources shall serve as chairperson of the commission. The commission shall meet on call of the chairperson or at the request of a majority of the members of the commission.

(c) The commission shall:

(1) Adopt procedures and guidelines for selection of the design **concepts** of the quarter dollar that is emblematic of the state of Kansas; such guidelines shall be consistent with the guidelines prescribed by the 50 states commemorative coin program act and shall be publicized by the

1 commission;  
 2 (2) invite ~~to submit design sketches for the Kansas com-~~ **[Kansas artists]** ~~memorative quarter dollar that are broadly appealing to the citizens of~~ **[Kansas]**  
 3 ~~the state and that maintain a dignity befitting the state's history and di-~~  
 4 ~~versity; such design sketches must be submitted to the commission on or~~  
 5 ~~before June 1, 2004. Each design sketch shall be accompanied by a~~  
 6 ~~narrative that explains why the concept is emblematic of the state~~  
 7 ~~and what the concept represents to the citizens of the state. Each~~  
 8 ~~design sketch shall be submitted to the commission on or before~~ **[The submission deadline**  
 9 ~~June 30, 2003.]~~ **will be determined by the**  
 10 **commission.]**

11 (3) review the design sketches submitted by Kansas artists and choose  
 12 ~~four designs and narratives submitted by~~ **[Kansas artists]** ~~and choose~~ **[Kansas]**  
 13 ~~five submissions~~ as finalists in the design selection process;

14 (4) forward only the selected narratives to the United States  
 15 mint and collaborate with the United States mint in the preparation  
 16 of artwork of the concepts;

17 ~~[(5) upon approval by the secretary of the treasury, the design~~ **[upon approval by the secretary**  
 18 ~~candidate finalists shall collaborate with the state board of education~~ **of the treasury, the design**  
 19 ~~and the secretary of state in submission] of the four five finalist designs~~ **candidate finalists shall be**  
 20 ~~to an election in which all students enrolled in accredited public and~~ **forwarded to the commission,**  
 21 ~~accredited nonpublic~~ high schools of the state may participate and by **which will collaborate with the**  
 22 ~~majority vote select the design for the Kansas commemorative quarter~~ **state board of education and**  
 23 ~~dollar that the commission shall submit to the governor; the election shall~~ **the secretary of state in**  
 24 ~~be held during the last week of January 2005 April 2004.] Such election~~ **submission . . . .]**  
 25 ~~may be conducted by internet ballot.~~

26 Sec. 3. The governor shall submit the design selected by vote of Kan-  
 27 sas high school students to the United States mint for review of coina-  
 28 bility. After consultation with and approval of the selected design by the  
 29 United States secretary of the treasury, the governor shall designate the  
 30 design as commemorative of the state of Kansas for coinage for pre-  
 31 sentment to the secretary of treasury for final approval.

32 Sec. 4. The Kansas arts commission, the Kansas humanities council,  
 33 and the Kansas historical society shall publicize the Kansas commemo-  
 34 rative coin design act and shall provide such assistance to the Kansas  
 35 commemorative coin design commission as may be requested by the  
 36 commission.

37 Sec. 5. This act shall take effect and be in force from and after its  
 38 publication in the statute book **Kansas register.**

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core depictions of rape, sexual torture, sadomasochistic abuse, group sex, and sex involving urination, defecation, and bestiality.

*Dangerous Access, 2000 Edition*, reports on a project David initiated last year to follow up to his original *Dangerous Access* released in March 1999. With the help of the Family Research Council, David submitted Freedom of Information Act requests to all fifty state-library systems; responses were sent to him for study and analysis. Because of the explicit nature of many of the reported incidents that David highlights, reader discretion is advised; the material is clearly not suitable for children. David is the sole author of *Dangerous Access, 2000 Edition: Uncovering Pornography in America's Libraries*. As the reader will see in the following pages, David lays the blame at the doorstep of the ALA.

The following pages prove that library online-services are being used by adults and children to access illegal pornography and that libraries are scenes of public masturbation and other sex crimes, often with full knowledge of library staff, some of whom have refused to call police. The ALA has acknowledged that the First Amendment protects none of this material. It is the height of hubris and duplicity for the ALA and public librarians knowingly to provide this illegal material and attempt to wrap themselves in the Constitution. (An analysis of federal obscenity, child pornography, state material-harmful-to-minors law, and the ALA Bill of Rights and Code of Ethics is provided in Appendix B.)

All who want to enjoy the services provided by public libraries with the knowledge they and their children are safe "in a welcoming environment" owe David Burt their deepest thanks for his momentous work. If Americans fail to act upon it and do nothing to stop the degradation and abuse of public libraries, it will be to their shame and loss.

H+5



## INTRODUCTION

A six-month investigation of documents obtained through Freedom of Information Act requests to public libraries has uncovered more than two thousand documented incidents of patrons, many of them children, accessing pornography, obscenity, and child pornography in the nation's public libraries. Many of the incidents were highly disturbing, as librarians witnessed adults instructing children in how to find pornography, adults trading in child pornography, and incidents involving both adults and minors engaging in public masturbation at Internet terminals. Analysis of computer logs from just three urban libraries revealed thousands of incidents that went unreported, indicating that the 2,062 incidents represent only a fraction of the total incidents nationwide. The total number of incidents each year nationwide is likely to be between four hundred thousand and two million.

Nearly all of the nation's public library systems were contacted with freedom-of-information requests, but 71 percent of the public library systems ignored the requests. Both the American Library Association and a number of state libraries sent messages to public libraries suggesting ways that libraries could avoid compliance with the requests. Several state librarians actually told public libraries in their states not to comply.

The incidents suggest that Internet policies alone do not deter crime on library Internet stations. The incidents supplied by libraries included 172 incidents where librarians described crimes being committed, such as the accessing of child pornography, the accessing of material described by the librarians as "obscene," public masturbation, and adults exposing children to pornography. In only six of these incidents (3.5 percent) were the police notified.

Obtained along with the incident reports were the Internet access logs of three public libraries that employ filters in Tacoma, Washington; Cincinnati, Ohio; and Dayton, Ohio. The logs reveal that among those sites blocked by filters, only 0.01-0.07 percent were nonsexual in nature. In other words, 99.93-99.99 percent of the time, the filter did not block innocent sites.

The failure of many libraries to prevent these incidents combined with the demonstrated effectiveness of filtering software supports the appropriateness of legislation to require the use of filters in public libraries.

## WHY THIS REPORT WAS NECESSARY

According to a 1999 study in *Nature*, there are approximately 12 million pages of pornographic content on the Internet, accounting for 1.5 percent of all Internet content.<sup>1</sup>

The anonymous environment of the public library offers the ideal place to access this sea of pornography. Children who want to avoid supervised access to the Internet at home and school, men who do not wish to risk their pornography habits being discovered by their wives and children, transients without any other access to Internet pornography, pedophiles wishing to download illegal child pornography, and sexual perpetrators wishing to expose others to pornography would all be attracted to a public library to obtain free access to the Internet.

Many librarians report situations in their libraries where "porn surfers" create serious problems. Michael Schuyler, systems' librarian for the Kitsap, Washington, Regional Library System, describes the experience in his own library:

"Porn Alley" is what we call it here—a row of PCs facing away from the reference desk with full Internet access. It's inhabited from the moment we open until the moment we close by brazen folk who, with no shame, will look at pornography no matter who is around or how shocking it may seem.<sup>2</sup>

Orange County, Florida, Public Library director Dorothy Field described her own situation:

A number of people were coming into the library and accessing sites that would be described as hard-core porn. I am not talking about *Playboy* and naked ladies. I am talking about stuff in the back room of adult bookstores. They would view this for hours on end.<sup>3</sup>

The response of both the American Library Association and the "free speech community," organizations such as the American Civil Liberties Union and People for the American Way, has been to discount such reports. Ann Symons, immediate past president of the American Library Association, recently said, "The whole issue of protecting children has been blown way out of proportion by the media and those who seek to promote their own agendas."<sup>4</sup> Judith Krug, director of the ALA's Office of Intellectual Freedom, even went so far as to say that "their number is so small that it is almost laughable," and "only one child out of a trillion billion" might use library computers to seek out pornography.<sup>5</sup>

Other free-speech organizations have taken a similar line. Larry Ottinger, staff counsel for the People for the American Way, called filtering "an unconstitutional solution in search of a problem."<sup>6</sup> The ACLU has dismissed the many published accounts of patrons viewing pornography in libraries as "a few unconfirmed press reports."<sup>7</sup>

## THE PHILOSOPHY OF THE AMERICAN LIBRARY ASSOCIATION

The American Library Association is a 58,000-member organization with a stated mission "to provide leadership for the development, promotion, and improvement of library and information services and the profession of librarianship."<sup>8</sup> The ALA has tremendous influence over library policies and the practice of librarianship. A key part of the ALA philosophy is its Library Bill of Rights. In 1980, the Library Bill of Rights was amended to include nondiscrimination based on age:

A person's right to use a library should not be denied or abridged because of origin, age, background, or views.<sup>9</sup>

ALA officials sometimes attempt to finesse ALA's policies to suggest that ALA does not support children's access to Internet pornography. However, the official ALA statement, *Access to Electronic Information, Services, and Networks: An Interpretation of the Library Bill of Rights*, makes the ALA position clear:

Libraries, acting within their mission and objectives, must support access to information on all subjects that serve the needs or interests of each user, regardless of the user's age or the content of the material.<sup>10</sup>

Statements by leading ALA officials also make this point. Judith Krug, director of the ALA's Office of Intellectual Freedom, stated, "Blocking material leads to censorship. That goes for pornography and bestiality, too. If you don't like it, don't look at it."<sup>11</sup> Krug not only seems to feel that pornography is not harmful to children, she has even said that parents who would tell their children not to read *Playboy* "don't really care about their kids growing up and learning to think and explore."<sup>12</sup> Krug's assistant director, Richard Matthews, in response to proposals that the Internet access of minors be filtered stated that "We recognize that minors have First Amendment rights, and any attempt to treat them differently from adults really infringes on those rights."<sup>13</sup>

ALA's immediate past president, Ann Symons, made her philosophy clear in a 1997 interview with John McChesney of *Hot Wired*, an on-line magazine:

*McChesney*: I wonder if, if I were 13 and I went into a public library . . . and I wanted to get a variety of pornographic material, whatever they had there. Would the library in any way stand in my way? I'm talking about hard copy here, physical stuff made of atoms, magazines and so on. Would there be any attempt to keep me away from it, to interfere with me?

*Symons*: I would say from my point of view there shouldn't be, and if the library didn't own this material and you as a 13-year-old asked for an interlibrary loan, that should be granted to you just as it would be to an adult patron.<sup>14</sup>

tell me a little bit of what he does at the library. Damian stated that he always gets on the computer and gets on the Internet and goes into the chat room on the computer. He told me that his handle on the computer was Aqua 3000. He said he entered a chat room and began to talk with a subject who referred to himself as Macho Man 73, at which time this subject was making several remarks to Damian. Damian told me that the subject was typing in remarks such as he knows that his Mom smokes dope and that he was so skinny that you could hula hoop him through a cheerio. Damian stated that he changed from that chat room and went into a second chat room on the Internet and once again Macho Man 73 let him know that he knew that Damian was at the public library and asked him if he wanted to play truth or dare. Damian stated that he was willing to play that with this subject on the computer at which time the subject told him to go into the boys restroom which was located on the second floor and ask another little boy if he would let him suck his d--. Damian responded back into the computer to Macho Man 73 and stated that he would do it.

I once again asked Damian if what he had done was right or wrong. Damian state[d] that he knew that this was wrong and that he has never approached anybody like this before. I asked Damian then why did he do it this time, to which he responded that it was a dare from the Macho Man 73 guy on the computer and that he just wanted to do it. I then asked Damian what he meant by earlier in the conversation that he was going to the restroom by himself. Damian told me that he was going to the restroom after he had been looking at pornography on the Internet and he would masturbate himself while inside one of the stalls in the restroom. He told [me] that during this two to four hour period while at the library he would go a minimum of two times each visit and masturbate.

—Phoenix Police Department Report, June 29, 1998

Patrons seeking to protect their children in some cases reported meeting with indifference or exasperation from librarians. As one incident report revealed, a patron wrote to the Sacramento Public Library after this experience:

I was at the library with my children ages 7, 10, 12. A child was looking at an Internet file that I felt was not appropriate to view in a public place. On the screen was a photo of a nude woman lying with legs spread. Another person was touching her bottom with his/her tongue. This child's activity was in plain sight of everyone who happened by the computer area or was descending the stairway to the "kids place." My children along with others in the area were unwilling subjects to this unsuitable material. When I spoke to the staff person, I was informed that she had no control in this matter, that is was the parent's responsibility to control their children. Unfortunately, the parent of this child did not appear to be in the area at the time.

In another incident report, a patron at the Novi, Minnesota, Public Library wrote to her library about her experience:

On a Saturday afternoon when we visited the library, I observed a young man (around age 12 or 13) sit down at an Internet station. Within a matter of seconds he was viewing full screen, live action, pornography. He changed the screen a few

Examples  
of types  
of porn  
accessed

times and viewed a variety of other pornographic material. I notified a librarian who told me "there's nothing I can do" and "this happens all the time. . . . I am especially bothered by the men who come in here to do this."

Another patron of Timberland Regional Library in Olympia, Washington, wrote:

More and more as I visit the library I see children sitting on the computers looking at very graphic pornography. This time I glanced over and saw a young teen viewing an explicit image and an eight or nine-year-old boy was happily looking over his shoulder. I told the librarian who simply shook her head and said there was nothing she could do about it.

These reactions by the librarians are consistent with how the ALA instructs librarians. A recent ALA pamphlet for librarians, *Frequently Asked Internet Questions*, addresses the question, "What do I do when I find a child looking at sexually explicit information online?" The answer given states: "Public Libraries do not have policies that restrict the content or use of information provided by the library. Therefore, these policies also protect Internet use."<sup>15</sup>

## **PUBLIC LIBRARIES AS CONDUITS FOR CHILD PORNOGRAPHY**

One of the most serious problems with anonymous, unfiltered Internet access is the use of libraries as conduits for the distribution of child pornography. Filtering Facts documented forty-one of these incidents.

Many public libraries employ policies that would seem to encourage the illegal transmission of child pornography. Many public libraries not only have privacy screens, but also destroy patron sign-up sheets after use, and employ computer programs that delete any trace of user activity. These policies make it very difficult for law enforcement to catch pedophiles using public library Internet stations to download child pornography. Indeed, such an anonymous environment of Internet access would seem attractive to pedophiles, since there is little chance their crimes will be traced back to them. At the Multnomah County, Oregon, Public Library and the Los Angeles Central Library, pedophiles have taken advantage of the anonymity to run child pornography businesses using library computers. The *Los Angeles Times* reported:

A convicted child molester who routinely used computers at the Los Angeles Central Library to collect and distribute child pornography was arrested after planning what he thought would be a sexual liaison with six youngsters—one as young as 3, police said Thursday . . . "He would go to the library as soon as it opened up and signed up to use each computer on each floor. . . . From there he maintained his Web site, while e-mailing and communicating with members of his club. He sent me as many as 300 images of child pornography."<sup>16</sup>

The response of librarians to the transmission of child pornography in their libraries at times encourage these activities. Only five of the forty-one (12 percent) incidents of child pornography were reported to the police. Librarians actually observed the child pornography on thirty-three of these occasions reported to Filtering Facts.



of 120 pages out of 1,020 or 11.76 percent. Based on the sample, 22,364 web pages were blocked during the year out of 2,510,460 total web pages accessed, or 0.9 percent.

**Content of Blocked Web Sites.** The bulk of the blocked sites were outright commercial pornography sites, and sexually explicit sites either not selling anything or featuring simple nudity or explicit sexual discussions. The nonsexual sites were composed mostly of one web site, *www.dejanews.com*. The blocking of *DejaNews*, a complete archive of Usenet posting has been controversial. The makers of Cyber Patrol claim they must block the entire site in order to block the numerous and explicit sexual discussion groups where pornographic pictures are exchanged. Apparently the library thought it too valuable a resource to completely block, as it disappears from the block logs in October, when the library apparently unblocked it.

	Commercial Pornography Sites	Sexually Explicit Sites	Dead Links	Nonsexual Sites and <i>DejaNews</i>
Number	12,385	6,180	1,947	1,853
Percent	55	28	9	8

**CINCINNATI/HAMILTON COUNTY PUBLIC LIBRARY**

*Server Logs give A TRUE ANALYSIS OF ACCESS*

The Public Library of Cincinnati and Hamilton County, Ohio, supplied fifty-two days' worth of computer server logs that recorded attempts to access web sites blocked by the filter, "Bess." From July 27, 1999, to September 16, 1999, the logs recorded patrons attempting to access files, including images, from blocked web sites 76,570 times in at least 5,055 separate incidents.

Analysis of the blocked web sites indicates this represents at least 4,297 separate incidents where patrons attempted to access approximately 14,878 pornographic web pages over fifty-two days. Further analysis of the content of the blocked web sites showed that only 2 percent of the blocked sites were nonsexual in nature, and that this accounted for only 0.01 percent of all web accesses—or that 99.99 percent of the time the filter did not block innocent sites.

**Data Supplied by the Cincinnati Library.** The library system employs a filtering server computer that centrally handles all Internet requests. The filtering server is called Bess and is supplied by a Seattle company, N2H2. Every day Bess generates a group of summary statistics describing total Internet activity, along with attempts to access blocked sites. The summary includes nineteen different statistics, such as "Search Engine Requests" and "Total Bytes." Five of the nineteen statistics were examined to determine the amount of Internet requests that were blocked by the filter, the content of the requests being blocked, and estimations of how many web pages and individual sessions this represented. An abbreviated example of a daily server log is shown below:



**Bess Proxy Server Statistics for Thursday, September 16, 1999**

Total Requests: 308,870

HTML Requests: 77,734

Total Blocked Requests: 849 (0.27 percent)

Unique Blocked Clients: 115

**Top Thirty Blocked URLs:**

(39 / 5 percent) *stats.hitbox.com/buttons/hitbox.com0.gif*

(28 / 3 percent) *www.cyberlounge.com/dc.gif*

(21 / 2 percent) *www.partyhouse.com/banners/kara/kasmod2f.gif*

**Top Thirty Blocked Domains:**

(82 / 10 percent) *stats.hitbox.com*

(79 / 9 percent) *www.partyhouse.com*

(38 / 4 percent) *www.xxx500.com*

- *Total Requests* represents the total number of all web-related files, such as html pages, as well as *gif* and *jpg* image files requested by Internet users.
- *HTML Requests* represents the total number of html files, or individual web pages, requested by Internet users. The ratio of *Total Requests* to *HTML Requests* was 3.87.
- *Total Blocked Requests* represents the total of all Internet requests, including images, blocked by the filter. This indicates that *Total Blocked Requests* exaggerates the total number of web pages blocked by 3.87 times.
- *Unique Blocked Clients* represents the number of individual workstations from which Internet requests were blocked. A minimum number of unique user sessions where there were attempts to access blocked files can be drawn from this figure.
- *Top Thirty Blocked URLs* represents the thirty most often blocked Internet files. The majority of these blocked files are *jpg* and *gif* image files. The numbers to the right of the URL of each blocked file, such as (39 / 5 percent), represent the number of times that file was blocked on that day, and the percentage of total blocked files it represents.
- *Top Thirty Blocked Domains* represents the thirty most frequently blocked Internet domains or highest level web site addresses. This information was less useful than *Top Thirty Blocked URLs*, since the files being blocked were sometimes several directory levels down from the top of domain. For example, *Top Thirty Blocked Domains* would report the file *www.angelfire.com/in2/exoticbikini/images/nl.gif* being blocked as simply *www.angelfire.com*. Therefore, the content of *Top Thirty Blocked URLs* was analyzed rather than *Top Thirty Blocked Domains*.

**Summary of the Statistics.** Total numbers for four of the statistics for each of the fifty-two days were compiled in a manner displayed in the table on the next page:

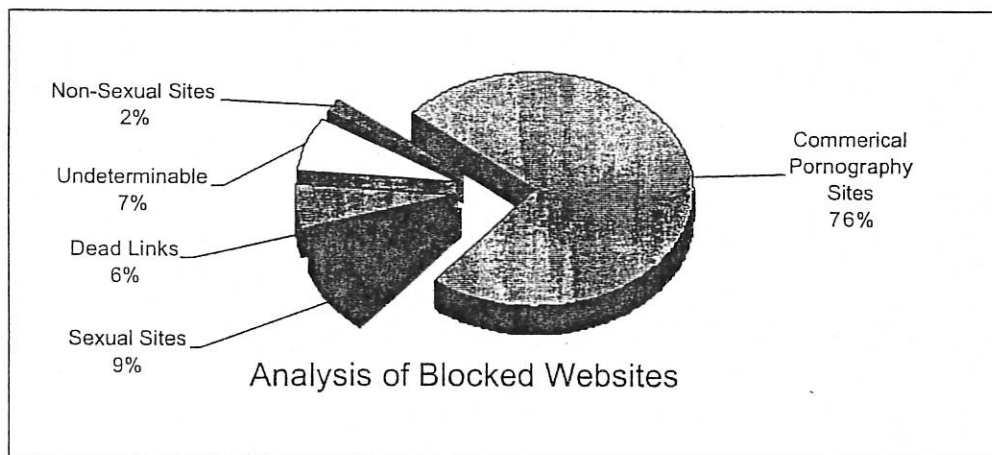
Total Requests	HTML Requests	Total Blocked Requests	Percent Blocked	Unique Blocked Clients
14,376,211	3,717,383	76,570	0.53%	5,055

*Total Requests* were divided by *HTML Requests* to determine the ratio of total requests to actual web pages, 3.87. Applying this ratio to *Total Blocked Requests* indicates that approximately 19,837 actual web pages were blocked during the fifty-two-days.

The 5,055 *Unique Blocked Clients* means that on at least 5,055 separate occasions users were blocked from accessing files. This almost certainly understates the number of separate occasions, since there were likely multiple incidents from the same workstation on the same day.

Each of the 1,500 URLs supplied in the *Top Thirty Blocked URLs* were analyzed for content. The total number of occurrences of blocked URLs that could be identified through the *Top Thirty Blocked URLs* statistic was 35,701. This represents 47 percent of the 76,570 *Total Blocked Requests*, and there is no reason to assume that this does not reasonably reflect the content of all blocked accesses. The number of times each URL was blocked was added to determine the totals for each content area. Some URLs were blocked hundreds of times. The complete data is contained in this table:

	Commercial Pornography Sites	Sexual Sites	Dead Links	Undeterminable	Nonsexual Sites	Total
Number	26,695	3,381	2,254	2,639	732	35,701
Percent	76.	9	6	7	2	100



**Content of Blocked Web Sites.** Every URL listed in the *Top Thirty Blocked URLs* statistic was checked for content. There were 1,500 separate entries, although a number of the URLs were listed multiple times. Each URL was examined, along with the main domain home page and the immediate directory web pages. For example, [www.partyhouse.com/banners/kara/kasmod2f.gif](http://www.partyhouse.com/banners/kara/kasmod2f.gif) was examined, along with the main domain home page, [www.partyhouse.com](http://www.partyhouse.com), and the immediate directory web pages in [www.partyhouse.com/banners/kara](http://www.partyhouse.com/banners/kara). A determination was made as to which category the blocked portion of the web site belonged.

*Commercial Pornography Sites* were sites that: 1) featured "Adults Only" type warnings somewhere on the site, and 2) were engaged in selling pornographic photographs, text, or chat rooms. Examples of this type of site were [xx.fsn.net](http://xx.fsn.net), "The Fetish Sex Network," and [www.slut-o-rama.com](http://www.slut-o-rama.com).

*Sexual Sites* were either non-commercial pornography sites, sites that depicted nudity in a casual or artistic way, or sites that featured explicit sexual discussions. Examples of this type of site were [energy4life.com](http://energy4life.com) and [www.chocolatebikini.com](http://www.chocolatebikini.com) both of which featured mild nudity.

*Undeterminable URLs* were portions of sites that served images or banners to meta-sites, and the directory or sub-page where the image was serving was not determinable. The majority of these URLs were from the meta-site [www.geocities.com](http://www.geocities.com), which features thousands of individual user home pages, and serves these sites with image files such as [www.geocities.com/toto?s=19190030](http://www.geocities.com/toto?s=19190030).

*Dead Links* were sites or relevant portions of sites that returned a "not found" or "error" message.

*Nonsexual Sites* were sites that had no explicit sexual content at all. This included sites such as [www.dylanology.com](http://www.dylanology.com), a site devoted to Bob Dylan and [www.defendoor.com](http://www.defendoor.com), a door security product.

**Number of Incidents.** Because the logs do not link each access with an individual workstation, it is not possible to precisely determine how many separate incidents occurred. However, Bess records the *Unique Blocked Clients* statistic for the number of individual workstations where a blocked attempt occurred. The total number of *Unique Blocked Clients* for the fifty-two days was 5,055. Assuming that at least 85 percent of blocks were sexual or from commercial pornography sites, this translates into an estimate of at least 4,297 separate incidents where patrons attempted to access pornography. Since more than one session involving an attempt to access a blocked site almost certainly occurred on the same workstations, this number understates the total number of incidents.

**Conclusions.** The sample of 47 percent of all blocked URLs analyzed revealed only 732 times where a patron encountered a wrongly blocked site. This would translate into about 1,485 wrongly blocked accesses out of 14,376,211 total accesses, about 0.01 percent. What this means is that 99.99 percent of the time the filter blocked no innocent

**APPENDIX B**  
**A REVIEW OF PORNOGRAPHY LAW**

by  
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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, e-mail, and other online services (*Reno v. ACLU*, 521 U.S. 844, 117 S. Ct. 2329 (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 and services that use phones 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 child pornography into a state or distribute it 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 more than 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. 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 denying access to 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 are 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 "cyberpom" are 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 (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).



Library officials and governing bodies should also be reminded of the concession made by the ALA in *Reno* that, obscenity is lawfully and totally "banned" in cyberspace because it is illegal and enjoys no First Amendment protection. See *Reno* at 879. Consistent with this admission of existing and valid law, the ALA's "censorware" opposition to filtering practices is legally and morally groundless. Therefore, obscenity, child pornography, and harmful to minors materials should not be subject to unrestricted access on library Internet equipment.<sup>80</sup> It is unimaginable and unacceptable for a public library, which is a government agency acting as patron of services, to provide access to illegal material in violation of its own laws, when, acting as sovereign, government has a duty to prosecute and punish others for doing so.

### THE ALA BILL OF RIGHTS AND CODE OF ETHICS

Even though the ALA and their lawyers at the ACLU admit that obscenity, child pornography, and material harmful to minors that is knowingly displayed or disseminated to minors are without constitutional protection, they vehemently disagree with the law and want it changed.

The ALA's position is expressed in their Bill of Rights<sup>81</sup> and their Code of Ethics.<sup>82</sup> When one has an informed understanding of the nature of obscenity and child pornography, it is evident that for the ALA to knowingly allow adults, and especially children, access to illegal pornography in public libraries is a violation of its own self-proclaimed principles.

First, legislators and library and school boards should understand that the ALA is a private trade association, with no legal right or authority to impose policy on a publicly supported institution. The ALA, as a private entity, cannot lawfully be granted veto power over the discretion vested in these public officials. In the public debate regarding filtering software, public officials' reliance on the Library Bill of Rights to the exclusion of state and federal law proscribing obscenity and child pornography and state laws protecting minors from exposure to material harmful to minors, is the legal equivalent of an unlawful delegation of the lawmaking power to a private association, as condemned in the mandatory MPAA rating cases. To permit the ALA to run America's libraries is akin to permitting the American Bar Association to run America's courts.

The ALA's Library Bill of Rights merely represents the personal opinion and private views of a private entity and/or of its members. It does not constitute "legal authority" upon which public decisions may be lawfully based. The Library Bill of Rights represents a "model code" of the ALA, and must be accorded the same treatment given the self-regulatory "model codes" of any other private entity, such as a plumbers or electricians union standards, Teamsters Union driving code, Underwriters Laboratory standards, or the Motion Picture Association of America (MPAA) movie rating system.

The law cannot be interpreted as giving private organizations, such as the ALA, a "veto power" over federal and state law. The California Court of Appeal addressed the treatment to be accorded a model code of a private trade association in *International Association of Plumbing and Mechanical Officials et al. v. California Building Standards*



*Commission*, 55 Cal. App. 4th 245 (1997), *petition for rehearing denied* June 17, 1997, *petition for review denied* August 13, 1997, 1997 Cal. LEXIS 5089.

“Manifestly, any association may adopt a ‘code’ but the only code that constitutes the law is a code adopted by the people through the medium of their legislatures. The Plumbing Officials Association is purely private and in no sense represents the people.”[quoting *Columbia Specialty Co. v. Breman* (1949) 90 Cal. App. 2d 372, at 378].<sup>83</sup>

Next, an informed understanding of the pornography available on the Internet is essential. Child pornography is neither art nor “expression.” It is a crime scene photograph that records the sexual abuse of a child in progress and in pictures. It is produced, distributed, and possessed by preferential child molesters (pedophiles), not to express an opinion, but for their own perverse sexual stimulation and gratification. It is used by pedophiles to desensitize children and to educate them as to what the molester wants them to do; it is used to “black mail” the child victim into silence; it is traded with other pedophiles for additional child pornography or to gain access to other child victims.<sup>84</sup>

But even if child pornography were a type of expression, it certainly is not the “free expression” of the child victim depicted in the photograph. It is compelled expression, which is a violation of the child victim’s right not to engage in “speech” or “expressive” conduct against his or her will.

It is the result of either the use of force, duress, or coercion of a child, who is physically and emotionally incapable of resisting an adult sex offender and legally incapable of consenting to engage in sexual conduct, or to the production, distribution, purchase, or possession by another, of the visual depictions of the illegally produced visual images.

In *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943), the Supreme Court struck down a state board of education rule requiring public school pupils to salute the flag of the United States while reciting the pledge of allegiance. The majority opinion, often quoted in “compelled speech” cases, held: “If there is any fixed star in our constitutional constellation, it is that no official can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.”

As the First Amendment protects a child from being compelled to salute the flag and recite the pledge of allegiance, it would also protect the child’s right not to have a visual reproduction of the compelled “expression” viewed or possessed by others. No one has a First Amendment right to see or hear another’s compelled “expression.”

A compulsory New Hampshire license plate law that made it a crime to obscure the motto, “Live Free or Die,” was struck down in *Wooley v. Maynard*, 430 U.S. 705, 715 (1977). The Court stated:

We begin with the proposition that the right of freedom of thought protected by the First Amendment against state action includes both the right to speak freely

and the right to refrain from speaking at all. . . . The right to speak and the right to refrain from speaking are complementary components of the broader concept of 'individual' freedom of mind. . . . Here, as in Barnette, we are faced with a state measure which forces an individual, as part of his daily life—indeed constantly while his automobile is in public view—to be an instrument for fostering public adherence to an ideological point of view he finds unacceptable. In doing so, the State invades the sphere of intellect and spirit which is the purpose of the First Amendment to our Constitution to reserve from official control. [Citations omitted].

Certainly, if a citizen cannot be compelled to use his private automobile as a "mobile billboard," a child cannot be compelled to have his or her body sexually violated and used as the "daily" and "constant" "public" means of facilitating the perverse and illegal "expression" of a child molester.

The First Amendment protects every person, including children, from forced or coerced expression. Each time a visual reproduction of a child's sexual abuse is viewed by others, his or her First Amendment free expression and privacy rights are violated in the most outrageous way. That is precisely what the ALA facilitates by advocating for unfiltered access to all Internet material, including child pornography. It is the epitome of hypocrisy for the ALA to facilitate the invasion of privacy and exploitation of sexually abused children, who have been forced or coerced into sexual "expression," while claiming in their Bill of Rights and Code of Ethics to believe in and protect free expression and privacy rights.

In addition, to approve or assist the proliferation of hard-core adult pornography and child pornography on library computer terminals creates an offensive and hostile work environment for library employees. In doing so, the ALA is blatantly violating its own Code of Ethics, in which they claim to "treat co-workers and other colleagues with respect, fairness and good faith, and advocate conditions of employment that safeguard the rights and welfare of all employees of our institutions."

Exposing children, pedophiles, and adults to such material teaches a dangerous and distorted message about sex. In pornography, human beings have no value apart from their body parts; the "rape myth" is perpetuated; sex is separated from love and replaced by self-gratifying, self-centered lust at the cost of human dignity.

Will Americans ever forget the videotaped image of the two-year-old boy in England as he was being led out of a shopping mall to his death holding hands with his two ten-year-old murderers? Following the kidnapping and murder of the toddler, the British became alarmed about media effects. Mimicking *Child's Play 3*, a horror video rented by the father of one of the killers, the two boys splashed the toddler with blue paint, battered his face and placed his tiny body on train tracks to be severed—all scenes in the film. The father had rented hundreds of horror and pornography videos, laying down the brain structure for a brutal killer. The Sky Television satellite network canceled its scheduled showing of *Child's Play 3* and at least one British video store destroyed its copies of the film (*The Toronto Sun*, November 26, 1993).<sup>85</sup>

Incredibly, the "Online Computer Library Center" lists twenty-five public libraries across the country that offer *Child's Play 3*.<sup>86</sup> If those libraries follow the ALA Bill of Rights, we are assured that they will permit a child to borrow it. Furthermore, under the ALA privacy guidelines, the libraries would most likely refuse to respond to the parent's request for information about what library materials and services their child has accessed. As the *Intellectual Freedom Manual* (ALA, 5th edition) states, "Freedom to express oneself through a chosen mode of communication becomes virtually meaningless if access to that information is not protected." Indeed, does the ALA expect Americans to believe that the United States would not remain a free and open society if the ALA cooperated in keeping hard-core and child pornography out of public libraries and *Child's Play 3* out of the hands of children?

Keep in mind the contempt the ALA has for "censors," those individuals who challenge the ALA's choice of certain library materials. They think others

may not have a broad knowledge of literature or of the principles of freedom of expression. . . . Although an attempt to stereotype the censor would be unfair, one generalization can be made: Regardless of specific motives, all would-be censors share one belief—that they can recognize "evil" and that other people must be protected from it. Censors do not necessarily believe their own morals should be protected, but they do feel compelled to save their fellows.<sup>87</sup>

Even poor souls with knuckles dragging upon the ground can recognize the evil of child pornography and obscenity, unlike the enlightened spirits at the ALA.

## NOTES

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