

## Library Development Services

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### Reports

#### 15th Annual Report

Oregon Intellectual Freedom Clearinghouse

*Fifteenth Annual Report*

July 1, 2001 – June 30, 2002

Goal of the Oregon Intellectual Freedom Clearinghouse

The goal of the Oregon Intellectual Freedom Clearinghouse is to uphold the principles of the Library Bill of Rights in all types of libraries, by improving communication between librarians, board members, professional associations, and other concerned groups in Oregon about challenges to intellectual freedom, and by increasing awareness as to how threats to intellectual freedom can be addressed.

Objectives of the Oregon Intellectual Freedom Clearinghouse

To establish a central clearinghouse to collect and disseminate reports about challenges to intellectual freedom in all types of Oregon libraries.

To provide information about challenged materials to public library directors and library board members, school media center librarians and academic librarians when requests for reconsideration of materials are received.

To provide information to public library directors and library board members, school media center librarians and academic librarians about establishing appropriate policies and procedures before a challenge to intellectual freedom occurs.

To cooperate with other persons and groups concerned with intellectual freedom or related issues.

Scope of the Clearinghouse

The Clearinghouse collects information about written challenges to library materials in any type of library in Oregon. The information is submitted voluntarily and there are libraries who choose not to submit. The content of the *Annual Report* is taken from the reports that are submitted to the Clearinghouse.

The *Fifteenth Annual Report* summarizes 21 challenges to library materials in five libraries and one school district that took place between July 1, 2001 and June 30, 2002. Challenges to materials that have been reported to the Oregon Intellectual Freedom Clearinghouse are included in the *Annual Reports* produced each year since 1978. The *Title Index to Challenges* on the Oregon State Library website contains summary information while the *Annual Reports* contain more complete information. Beginning with the *9th Annual Report*, 1995-96, the reports are posted on the Oregon Intellectual Freedom Clearinghouse page of the Oregon State Library website <http://www.osl.state.or.us/home/libdev/oifch.html>. To obtain copies of *Annual Reports* prior to 1995-96 contact Val Vogt, Oregon State Library, at 503-378-2112, extension 222, or [val.t.vogt@state.or.us](mailto:val.t.vogt@state.or.us).

Summary of Challenges Reported in 2001-02

The Oregon Intellectual Freedom Clearinghouse received information about 21 challenges to library materials between July 1, 2001 and June 30, 2002. Fifteen of the challenged titles were books, two were videotapes, three were magazines, one was an audiobook. Five public libraries reported nineteen of the challenges and one school district reported two challenges. Seven of the challenged items were designated as children's or young adult materials, and fourteen were materials for adults. In all twenty-one of the challenges, library staff committees or a school board decided that the challenged materials should be retained. Three of those items were reclassified to more accurately reflect the content.

The challenges listed below are organized according to library type, public or school, and arranged alphabetically by the title of the challenged material. Under the summary of events, the phrase "Staff review process" refers to adopted procedures by which library staff read or view the materials, collect reviews and other information about the material, and make the decision about the challenged item. This procedure is more common in public libraries. Generally, the library director writes a letter informing the library patron of the decision and explaining the appeals process, in case the citizen is not satisfied with the decision. The phrase "Committee review process" refers to adopted procedures by which a committee, such as an Instructional Materials Review Committee, makes the decision about the

challenged item. This procedure is more common in schools. The school board, superintendent, or site council often makes the final decision based on a recommendation from the committee.

#### Challenges in Public Libraries

##### ***Between the Sheets*** by The Editors of Penthouse Magazine (Adult Book)

Summary of objections: Concern expressed about graphic sexual language.

Summary of events: Staff review process. Book retained 4/16/02. Letter sent. No further appeal filed.

##### ***Bombay Talkie***(Adult Video)

Summary of objections: Concern expressed that categorization of video as "comedy" inaccurate.

Summary of events: Staff review process. Video reclassified as "drama" 6/3/02. Letter sent. No further appeal filed.

##### ***Bombers of World War II*** by David Donald (Adult Book)

Summary of objections: Concern expressed over omission of B-17 Flying Fortress.

Summary of events: Staff review process. Book retained 9/4/01. Letter sent.

No further appeal filed.

##### ***Echoby*** Francesca Lia Block (Young Adult Book)

Summary of objections: Concern expressed about sexual language and classification in the young adult collection.

Summary of events: Staff review process. Book retained as Young Adult 6/11/02. Letter sent. No further appeal filed.

##### ***A Far Distant Place***by Danielle Thomas (Adult Audiobook)

Summary of objections: Concern expressed about bias against "North Slope pipeline" and request for warning on cover.

Summary of events: Staff review process. Decision to retain without warning 3/8/02. Letter sent. No further appeal filed.

##### ***Homework***by Sunesta Peres de Costa (Adult Book)

Summary of objections: Concern expressed about the disparity between cover and content.

Summary of events: Staff review process. Book retained 2/22/02. Letter sent. No further appeal filed.

##### ***The Laughing Corpse***by Laurell K. Hamilton (Young Adult Book)

Summary of objections: Concern expressed that book should not be classified as Young Adult because of graphic sex and violence.

Summary of events: Staff review process. Book retained as Young Adult 10/18/2001. Letters sent. No further appeal filed.

##### ***A Moment in Time***by Judith Gould (Adult Book)

Summary of objections: Concern expressed about poor writing and graphic sex.

Summary of events: Staff review process. Book retained 4/30/02. Letter sent. No further appeal filed.

##### ***Low Rider*** (Adult Magazine)

Summary of objections: Concern expressed concern about inappropriate nudity within reach of children.

Summary of events: Staff review process. Magazine retained 2/22/02. Letter sent. No further appeal filed.

##### ***Muy Interesante***(Adult Magazine)

Summary of objections: Concern expressed about inappropriate nudity.

Summary of events: Staff review process. Magazine retained 12/18/01. Letter sent. No further appeal filed.

##### ***The Pocket Book of Sex and Chocolate*** by Richard Craze (Adult Book)

Summary of objections: Concern expressed about graphic illustrations and references to sex.

Summary of events: Staff review process. Book retained 4/16/02. Letter sent. No further appeal filed.

##### ***Porn 101: Eroticism, Pornography and the First Amendment***

by James Elias (Adult Book)

Summary of objections: Concern expressed about graphic illustrations.

Summary of events: Staff review process. Book retained 4/16/02. Letter sent. No further appeal filed.

##### ***Pornstar***by Ian Gittler (Adult Book)

Summary of objections: Concern expressed about graphic sexual illustrations.

Summary of events: Staff review process. Book retained 4/16/02. Letter sent. No further appeal filed.

##### ***The Schernoff Discoveries***by Gary Paulsen (Children's Book)

Summary of objections: Concern expressed that book is not appropriate for young children.

Summary of events: Staff review process. Book moved to Young Adult collection 9/12/01. Letter sent.

No further appeal filed.

***Sewing for the Less Than Perfect Figure*** (Adult Video)

Summary of objections: Concern expressed that video might "reinforce negative self image...and promote false message of perfect body type."

Summary of events: Staff review process. Video retained 2/22/02. Letter sent. No further appeal filed.

***Tamar*** by Ann Chamberlain (Adult Book)

Summary of objections: Concern expressed that book was not appropriately classified as "Inspirational Fiction".

Summary of events: Staff review process. Book reclassified as "Fiction" 10/4/01. Letter sent. No further appeal filed.

***Teen People*** (Young Adult Magazine)

Summary of objections: Concern expressed about vulgarity and sexual content.

Summary of events: Staff review process. Magazine retained 9/12/01. Letter sent. No further appeal filed.

***Women and the Koran*** by Anwar Hekmat (Adult Book)

Summary of objections: Concern expressed that book misinforms about and attacks Islam.

Summary of events: Staff review process. Book retained 9/24/01. Letter sent. No further appeal filed.

***Z is for Zombie*** by Merrily Kutner (Children's Book)

Summary of objections: Concerned expressed that graphic illustrations inappropriate for young children and should have warning.

Summary of events: Staff review process. Book retained without warning 6/6/02. Letter sent. No further appeal filed.

Challenges in School Libraries

***Killing Mr. Griffin*** (Book)

Summary of objections: Concern expressed about inappropriate language and plot.

Summary of events: Committee review process. Recommend to School Board to retain without restriction. School Board approved Committee recommendation 5/14/02.

***Magic Eye*** by N.E. Thing Enterprises (Book)

Summary of objections: Concern expressed about an illustration of a nude woman.

Summary of events: Committee review process. Recommendation to School Board to retain without restriction. School Board approved Committee recommendation 7/9/02.

Other Intellectual Freedom Issues in 2001-02

USA PATRIOT ACT: Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

The USA PATRIOT Act broadly expands law enforcement's surveillance and investigative powers. In particular, the law raises complicated questions with respect to what constitutes a business record and the law's broad definition of computer trespassers. The law also creates a new relationship between domestic criminal investigations related to foreign intelligence.

The legislation originated with Attorney General John Ashcroft, who asked Congress for additional powers that he claimed were needed to fight terrorism in the wake of the events of September 11, 2001. Few amendments were made to Ashcroft's initial proposal to Congress, and the bill became law without any hearings or markup by a Congressional committee. The new law moved through Congress quickly and as a result lacks an extensive legislative history that can be referenced. American Library Association and others in the library community will continue to analyze the act, monitor how it is implemented, and what its impact is on libraries and library users. To provide guidance to libraries ALA's Washington Office and Office of Intellectual Freedom have a wealth of resources on their websites:

<http://www.ala.org/alaorg/oif/usapatriotlibrary.html>

<http://www.ala.org/washoff/patriot.html>

Children's Internet Protection Act (CIPA)

On May 31, 2002 a federal court in Philadelphia ruled unanimously that the Children's Internet Protection Act (CIPA) is unconstitutional. The opinion was written by Chief Judge Edward R. Becker of the Third Circuit and joined by U.S. District Judges John P. Fullam and Harvey Bartle III.

The three-judge panel sitting in the Eastern District of Pennsylvania held that "we are constrained to conclude that the library plaintiffs must prevail in their contention that CIPA requires them to violate the First Amendment rights of their patrons, and accordingly is facially invalid"; the three-judge panel ruled Sections 1712(a)(2) and 1721(b) of the Children's Internet Protection Act to be facially invalid under the First Amendment and permanently enjoined the government from enforcing those provisions.

According to a Jenner & Block (ALA's legal counsel) memorandum dated June 18, 2002, the three-judge panel in the CIPA case held that the FCC and IMLS cannot withhold funds on the ground that a public library has failed to install mandatory filters on every computer. The Court held that "[b]ecause of the inherent limitations in filtering technology, public libraries can never comply with CIPA without blocking

access to a substantial amount of speech that is both constitutionally protected and fails to meet even the filtering companies' own blocking criteria." While this decision is directly binding only on the agencies and is not a directive to any particular library, the factual findings and legal conclusions of the Court may serve as useful precedents for other lower courts. ALA thus urges any library using mandatory filtering software to consult with legal counsel to reevaluate their Internet Use Policy and assess the risk of future litigation.

The Justice Department, acting on behalf of the Federal Communications Commission and the U.S. Institute of Museum and Library Sciences, formally notified the Supreme Court on June 20 that it would appeal this ruling.

For current information about the CIPA case see: <http://www.ala.org/cipa/>

The Oregon Intellectual Freedom Clearinghouse would like to track all intellectual freedom challenges in libraries, including those relating to the Internet. We are encouraging libraries to communicate with us about concerns and challenges that you receive. Contact MaryKay Dahlgreen, Clearinghouse Coordinator, [marykay.dahlgreen@state.or.us](mailto:marykay.dahlgreen@state.or.us) or 503-378-2112 ext. 239.

Information on the USA Patriot Act and CIPA was adapted from the American Library Association web site. Our thanks to Val Vogt at the Oregon State Library for her assistance with data organization and reviews about materials.

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