

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ANAKA HUNTER,)	
)	
Plaintiff,)	
)	No. 4:12-cv-4 ERW
v.)	
)	
BOARD OF TRUSTEES, SALEM)	
PUBLIC LIBRARY, et al.,)	
)	
Defendants.)	

Declaration of Dr. Joyce Latham

I, Dr. Joyce Latham, declare as follows:

1. My name is Dr. Joyce Latham. I have been asked to submit an expert report in *Hunter v. Board of Trustees, Salem Public Library, et al.*, No. 4:12-cv-4 ERW. I am over the age of 18 and legally competent to make an affidavit and do so on the basis of personal knowledge.
2. A true and accurate copy of that report, including the disclosures required under FED. R. CIV. P. 26(a)(2)(B) is attached to this declaration and is incorporated herein by reference.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 27, 2012.

/s/ Joyce Latham

Expert Report of Joyce M. Latham

Anaka Hunter

v.

Board of Trustees, Salem Public Library, et. al.

I. Expert Qualifications.	2
II. Purpose and Summary.	3
III. Professional Standards Impacting Public Libraries.	4
IV. Whether Salem Public Library Met The Standards Articulated Above With Respect to Web Filtering	11
V. Whether Salem Public Library Met The Standards Articulated Above With Respect to Confidentiality and Privacy.	17
VI. Final Summary	17
VII. Resources	19

I. Expert Qualifications.

My name is Joyce M. Latham. I am an assistant professor at the School of Information Studies (SOIS) at the University of Wisconsin-Milwaukee, in my fifth year with the masters program. I teach courses in the Foundations of Information Science, Services and Materials for Adults, the Seminar in Intellectual Freedom, and Public Libraries: Philosophy, Policy and Practice. I am the director of the Public Library Leadership concentration and past co-director of the Center for Information Policy Research, both associated with SOIS. I have coordinated workshops in Intellectual Freedom and Feminist Studies in Library and Information Science. My research agenda is focused on intellectual freedom in America, and I have published on the history of intellectual freedom and public libraries.

Academia is my second career. Before joining the faculty of SOIS I was the Executive Director of the Onondaga County Public Library System (NY), managing the County of Onondaga central library, the city of Syracuse branch libraries / service centers, and providing coordinated services to 20 town libraries throughout the county. These libraries ranged from the avant garde libraries, such as one would find in Liverpool, NY, to the cosy library of Tully, NY (population 2,738). During the four years I served as executive director we focused on technology upgrades, and one significant focus was the implementation of a filtering solution for the libraries in the environs of the city of Syracuse, in order to qualify for E-rate subsidies of our technology build-out.

While serving as the executive director in upstate NY, I completed my dissertation and graduated from the Graduate School of Library and Information Studies at the University of Illinois with a Ph.D. My dissertation addressed the historical roots of intellectual freedom practices in public libraries in the early 20th century, and the emergence of the Library Bill of Rights. My first scholarly publication addressed the challenges of the American Library Association to the Children's Internet Protection Act (2001).

During my twenty-five plus years of service as a professional librarian, I have served as the Director of Information Technology with the Chicago Public Library, Assistant Director of Automation for the Southern Maryland Regional Library Association, and the head of Technical

Services for the Northwestern Regional Library Association of Elkin, North Carolina. The depth and breadth of my experience incorporates a range of communities and has been generally focused on the implementation of advanced technologies and the development of coordinated policies affected by technology.

My career has also included service in professional organizations. Currently I am the outgoing secretary / treasurer of the Library History Round Table, associated with the American Library Association. I also participate in the Committee on Accreditation for the American Library Association, which accredits library education programs throughout the United States and Canada. Within Wisconsin, I am an officer in the Intellectual Freedom Committee. I have also served as president of the Public Libraries Systems' Directors Organization in New York state, and on the Advisory Committee for NYLink, a New York State network. During my service in Southern Maryland I served on the Statewide Network Visioning Committee, which produced the *Seymour Plan*, a strategy for networking all of the public libraries in the state of Maryland, now known as Sailor.

II. Purpose and Summary.

The purpose of this testimony is to offer my expert opinion on the degree to which the Salem Public Library of Salem, Missouri, and Library Director Glenda Wofford adhered to the professional practices of public librarianship as revealed through their interaction with Ms. Anaka Hunter. This report will address the principles and professional standards for public libraries and librarians regarding the following:

- What are responsibilities of public libraries and librarians with respect to collection development criteria and the application to the internet?
- What are the responsibilities of public libraries and librarians with respect to CIPA?
- What are the responsibilities of public libraries and librarians with respect to privacy and confidentiality of patrons?

The report will incorporate standards and guidelines provided by the American Library Association (“ALA”) for the administration of public libraries as well as State of Missouri

standards. For the sake of the discussion, “librarian” identifies any person serving the functions of a librarian in a community, and does not incorporate the Masters of Library Science (“MLS”) degree into the characterization.

After articulating applicable principles and standards I will opine on whether the Salem Public Library and its Director, Ms. Glenda Wofford met them. Specifically it will address the following matters addressed in Anaka Hunter’s lawsuit:

- Whether as configured from April 2009 to July 2011, the Salem Public Library’s Internet filter conformed with applicable library and librarian principles, standards, and responsibilities.
- Whether Salem Public Library’s Internet filter and policies, practices, and customs regarding unblocking legitimately blocked sites, conforms with these principles, standards, and responsibilities.
- Whether the “log” kept on Anaka Hunter, the calling of the police in December 2010, and the giving the police the log was consistent with these principles, standards, and responsibilities.

III. Professional Standards Impacting Public Libraries.

A. Overview of the Library Profession

In the modern era, public libraries are established under state legislation or regulations to serve a community, district, or region, and provide at least the following:

1. an organized collection of printed or other library materials, or a combination thereof;
2. paid staff;
3. an established schedule in which services of the staff are available to the public;
4. the facilities necessary to support such a collection, staff, and schedule, and
5. is supported in whole or in part with public funds (ALA/APA).

The structure of the public library involves governance by an independent board of trustees, either appointed by the local government representatives or elected via popular vote. The board of trustees appoints a chief administrator to manage the operations of the public library.

To support the growth and expansion of libraries across the country, library leaders established the American Library Association (ALA) in 1876. The ALA provides guidance in the development, improvement and promotion of the profession of librarianship and the delivery of services within libraries. Their goal is now as it was then to advance access to the broad range of information resources for all users, both active and potential. The national association, headquartered in Chicago, IL, is extended through state based library associations that serve to distribute information about emerging trends, practices and challenges. The ALA is also the authorized body for the accreditation of graduate level library education programs throughout the United States and Canada. Membership on the governing council as well as participation in the various round tables and committees, is drawn from the practitioners, educators, trustees, and advocates that make up the scope of the profession.

B. Library and Librarian Professional Standards.

1) Pre-Digital Age Standards.

During the 20th century, those focused on the growth of the profession advanced certain policies to shape the values affecting the practice of librarianship. The most critical of these documents was the *American Library Association Code of Ethics*, passed initially in January, 1939. It has been amended over time, but the basic principles remain the same (see Appendix for full document). Those principles which stand out relative to the delivery of services to library users are:

We provide the highest level of service to all library users through appropriate and usefully organized resources; equitable service policies; equitable access; and accurate, unbiased, and courteous responses to all requests.

We uphold the principles of intellectual freedom and resist all efforts to censor library resources.

We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.

We distinguish between our personal convictions and professional duties and do not allow our personal beliefs to interfere with fair representation of the aims of our institutions or the provision of access to their information resources.

Later that same year, the American Library Association membership passed by popular acclimation at their annual meeting the *Library Bill of Rights*, now a foundational document for public library acquisition policies. It states clearly that libraries are “forums for information and ideas.” The principles which stand out relative to library users and their access to resources are:

Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.

Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.

Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment (see Appendix for full document).

Over time, American Library Association standards and policies have grown in sophistication and breadth. As examined and discussed by Bruce J. Ennis (former Freedom To Read Foundation Counsel) “policies of the ALA are based on, and consistent with, federal and state constitutional protections as interpreted by the judiciary. Thus, ALA policies safeguard the rights of free speech of all patrons to the extent protected by either the Federal or state constitution. ...

In the spirit of providing the greatest access to information and ideas, ALA policies were intended to encompass the broadest interpretation of protection for free speech” (ALA Intellectual Freedom Policies and the First Amendment).

2) Internet-Age Standards.

a) General.

The *Access to Electronic Information, Services, and Networks* clarifies the relationship of standards originally developed for an analog environment incorporating books, magazines, records, and video cassettes to one incorporating digital resources such as online databases, web sites, mp3 recordings, and e-books. Originally adopted in 1996, the 2005 version incorporates the refinement of thinking about rights of access to networked resources which emerged in the development and expanded access to the Internet enabled by the implementation of the World Wide Web. The statement opens with a clear statement on the rights of the user: “Freedom of expression is an inalienable human right and the foundation for self-government. Freedom of expression encompasses the freedom of speech and the corollary right to receive information.” This interpretation of the *Library Bill of Rights* is explicit in protecting rights of access for users in stating “Information retrieved or utilized electronically is constitutionally protected unless determined otherwise by a court of law with appropriate jurisdiction” (See Appendix for complete text).

b) CIPA Compliance.

Public libraries that chose to take advantage of federal subsidies of public library activities available through the E-Rate program and Library Services and Technology Act (LSTA) funds are required to install protective measures for children relative to Internet access. These measures are detailed in the Children’s Internet Protection Act (CIPA), passed by Congress in 2000 with an effective date of 2001. CIPA requires schools and libraries to block visual depictions that are obscene, child pornography, or harmful to minors. CIPA specifically does

not apply to anything other than visual depictions such as photos or illustrations (e.g., it does not apply to text). CIPA specifically limits “harmful to minors” only to graphical depictions of a prurient nature. While CIPA requires an internet blocking package on every computer in the library, it specifically allows for the disabling of the filter for adults doing research on library computers. In fact, according to the Supreme Court, the ready ability to disable the filter at an adult’s request is critical to the constitutionality of the law itself.

Challenges to the constitutionality of the legislation were resolved via the 2003 Supreme Court decision in UNITED STATES et al. v. AMERICAN LIBRARY ASSOCIATION, INC., et al. The Court affirmed the right of Congress to attach conditions to funding programs and indicated that, given the nature of collection development practices in libraries, the use of Internet filters were an appropriate technology to manage access to the broad scope of resources available through the network. The Court recognized that “overblocking” could be a concern except “the ease with which patrons may have the filtering software disabled.” Justice Breyer wrote that the objectives of the legislation— “of restricting access to obscenity, child pornography, and material that is comparably harmful to minors—are ‘legitimate,’ and indeed often ‘compelling.’ No clearly superior or better fitting alternative to Internet software filters has been presented. Moreover, the statute contains an important exception that limits the speech-related harm: It allows libraries to permit any adult patron access to an “overblocked” Web site *or to disable the software filter entirely upon request*” [italics mine].

C. Applicable and Reinforcing Missouri Public Library Professional Standards.

1) General.

The *Missouri Public Library Standards* (1996, 2005) reinforce the significance of the ALA standards in stating: “The [Missouri] library district’s governing authority has formally adopted and follows the principles of the American Library Association’s intellectual freedom statements. If the library district provides access to electronic resources, policies are adopted which incorporate the intent of these statements” (p.10). The standards also address the roles of

the library board and the library director, who is appointed by the library board. The board itself must “compl[y] with Missouri law and any federal laws which affect library operations” (p. 23) and it “carries full responsibility for the library, its budget, and its policies” (p.4). The library director shall “act as technical advisor to the board; recommend[ing] needed policies for board action” (p.6).

2) Record Retention and Patron Privacy.

The state of Missouri also addresses standards for records retention through the Missouri Revised Statutes Chapter 109 (Public and Business Records) Section 255, which establishes minimum retention periods for the administrative, fiscal and legal records created by local government bodies. The section on library records, current as of August, 2012, indicate that personal records, as distinct from institutional data, enjoy a high degree of privacy under state law. Subsection “LIB 004” also called “Circulation Records-Personal” indicates that those records which establish a link between a library user and library materials shall be retained only “Until materials have been returned and all fines/fees paid in full or deemed uncollectable.” Similarly, subsection “LIB 005 – Daily Sign-in / Sign-up Records”, which specifically addresses computer sign-in logs, indicates that the data shall be used to track “usage of computers or other equipment for control and statistical purposes.” The document indicates that the data that may be collected includes name, date and time and that it shall be collected until “statistical information [is] recorded.”

The Missouri policy on library records ensures that public libraries continue to protect a patron’s right to privacy. The patron right to privacy parallels the patron’s right of access. As noted above, a core ethical value of the field of librarianship is:

We protect each library user's right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted.

Addressing privacy and confidentiality, the *ALA Code of Ethics* is supplemented by a further interpretation of the Library Bill of Rights addressing privacy:

“Users have the right to be informed what policies and procedures govern the amount and retention of personally identifiable information, why that information is necessary for the library, and what the user can do to maintain his or her privacy. Library users expect and in many places have a legal right to have their information protected and kept private and confidential by anyone with direct or indirect access to that information” (full text available in Appendix).

Surveillance of use has long been recognized to generate a “chilling effect” on the choices of users and respect for those concerns has been a core value in the development of public library policy and practices. In the state of Missouri, these concerns are incorporated into law.

3) Professional Standards of and Relationship Between Library Boards and Library Administrators

Missouri Revised Statutes Chapter 182 Section 182.900 allow for the creation of public libraries by a city within the state. Section 182.2 indicates that the board of trustees shall (2) “make and adopt such bylaws, rules and regulations for their own guidance, and for the government of the library, as may be expedient, and not inconsistent with sections 182.140 to 182.301” and that they shall (3) “appoint a properly qualified librarian who shall be the chief executive and administrative officer for the library.” Trustees are expected to make a serious commitment to their position and the role of the library in the community; attend meetings and actively participate in the conduct of board business; be familiar with state law, public library standards and principles; avoid conflicts of interest; support open access and freedom of expression for all members of the community they serve. The Public Library Association, as well as the American Library Trustees Association, both constituent members of the American Library Association, have adopted an Ethics Statement for Library Trustees (Preer, 2008). This statement incorporates similar values to the ALA Code of Ethics for practitioners and states, among the several principles for governance:

Trustees must distinguish clearly in their actions and statements between personal philosophies and attitudes and those of the institution, acknowledging the formal position of the board even if they personally disagree.

Trustees must be prepared to support to the fullest the efforts of librarians in resisting censorship of library materials by groups or individuals.

These values align trustees and practitioners in active protection of the rights of their patrons to access and receive information regardless of their own personal opinions or the personal opinions of others who would challenge the values of public library practice.

The trustees appoint the public library chief administrator, whether known as a library director, chief librarian or chief executive officer. While daily library operations are executed according to policies developed by the board, staff determine the procedures to execute those policies, and the director coordinates those operations. The director initiates the development of appropriate policies by ensuring that practices conform to local, state and federal laws. In order to meet the requirement of compliance, the director must monitor the status of local, state and federal laws or standards related to public libraries, and be prepared to inform the board of any modifications in local policy required by external changes. The director is also responsible for the education and orientation of new board members to public library legal structures, related legislations, shared standards, ethics, and best practices. The director can most easily educate his or her self and most closely monitor for such change through membership in professional organizations at either the state or the national level. The publications of professional organizations as well as participation in professional listservs can provide the access to relevant information required for successful leadership of the institution.

IV. Whether Salem Public Library Met The Standards Articulated Above With Respect to Web Filtering

A. Policies – General.

Salem Public Library, established under Missouri statute, is recognized as a public library in the state, with all the authority and responsibility that inheres in such an institution. The by-laws of

the Salem Public Library are comprised of seven articles, which lay out the name of the library, the objectives in establishing the library, the fee structure, the make-up and role of the board of trustees, the frequency of meetings, adoption of parliamentary procedure for the conduct of meetings, and requirements for the attendance at meetings by board members. The executive director is named as an ex-officio, non-voting member of the board of trustees. The document does not clearly indicate when the by-laws, specifically, were initially adopted and subsequently amended, nor does it indicate an amendment process. A number of policies are collected with the by-laws comprising a single document and there is an indication on the cover that something within the broader collection was changed in 2012. The by-laws and the policies and procedures should be separate publications, as one is a legal document establishing the library, and the other is a collection of decisions of that legal body, which can be changed by the body itself.

The first policy collected with the by-laws is the Salem Public Library Statement on Intellectual Freedom, which incorporates the American Library Association Library Bill of Rights into its own policy. There is no date on the policy, but the focus on print materials within the statement suggests that the policy has not been updated to address new means of access to information resources. Even so, the incorporation of the ALA Library Bill of Rights recognizes the significance of the national organization in informing library standards at the local level.

The Mission Statement, also part of the by-laws document (p. 4), further prioritizes the significance of intellectual freedom to its service model when it asserts “The Salem Public Library will be a reliable resource center and an advocate of intellectual freedom for the community by providing free and equal access to information, materials, services and programs.” Within the Materials Selection Policy, the document states:

The library recognizes that many materials (books, videos, records, etc.) are controversial and that any given item may offend some patrons. Responsibility for the reading and viewing of children rest with their parents and legal guardian. Selection will not be inhibited by the possibility that the materials may inadvertently come into the possession of children. Selections will be made on the merits of the work in relation to the building of the collection and interests of the community (p. 15).

This policy adheres closely to general public library collection development statements which respect the rights of the public to unfettered access to library resources or potential library resources. In fact, within the section on Organizational Structure, the library asserts it will “continue to develop its collections, staff and facilities to meet both American Library Association Standards and Missouri Library Association Standards for Public Libraries” (p.5)

The Salem Public Library identifies its primary responsibility as “[encouraging] young children to develop an interest in reading and learning through services for children, and for parents and children together” (p. 4). This priority is supported with a focus on the development of library collections which support the needs of preschoolers, reading readiness, story hours and then includes adult literacy training. The library also recognizes as one of its primary roles the provision of access to online services and State Library databases through participation in MoreNet (number 4, p.5). MoreNet provides access to high-end databases and digital resources, as well as making available an Internet filter that enables compliance with the Children’s Internet Protection Act.

B. Policies – Computer.

The Public Access Microcomputer Policy (pp. 22-23) appears to double as the library’s Internet Use Policy, although it is not identified as such. It does incorporate language addressing public access to the Internet, primarily focused on how children may gain access to the resources through a microcomputer use agreement signed by the child’s parent or guardian. The policy states that Internet supervision is the responsibility of the parent or legal guardian, however, it also states that while “library personnel cannot provide full-time monitoring of waived minors, those found to be accessing sites, using electronic mail, chat room and other forms of direct electronic communications to engage in offensive, disturbing, potentially harmful and/or illegal communications ... can have their computer/Internet rights revoked and their parents/guardians notified.” In keeping with requirements of the Children’s Internet Protection Act it further forbids “hacking” and the unauthorized dissemination of information concerning minors.

However, later in the document, the library states that “The use of the Internet system is a privilege which may be revoked by the library at any time for abusive conduct The Salem Public Library will be the sole arbiter of what constitutes abusive conduct.” In fact, access to the Internet is a right as valid as the right of access to any other information resource. The policy does not define the scope of the protections it will enact, nor does it address how an adult may gain access to constitutionally protected speech. Again, the dates for the adoption of the policy and any amendments are not noted.

The “Public Access Microcomputer Policy” does not incorporate any recognition of the rights of access for adults. The single sign available that indicates that “Any adult, 18 years of older, who is experiencing a blocked site may have the internet unblocked upon request from any library employee” is not incorporated into any official policy; the language is not clear about what may be unblocked, the single site, or the entire Internet; it also suggests that such unblocking is not available to adults unless a block is encountered. In fact, an adult may request the removal of the filtering software before she or he begins an actual search on the Internet. The laminated copy of the “Public Access Microcomputer Policy”, by nature of its replication of the policy under discussion, does not incorporate language addressing the rights of adults relative to information access.

C. Salem Public Library’s Web Filtering.

The Salem Public Library secures its filtering software through the MoreNet system available from the University of Missouri. The collaboration among the various public institutions – the State Library, the University, and the participating libraries-- allows for an extremely economical package of services which includes telecommunications service, online research databases, and the Netsweeper Internet filtering software. The MoreNet website indicates that more than 50 categories are available for filtering through Netsweeper.

According to discussion within the deposition of the Salem Public Library Director Glenda Wofford, the Netsweeper filter arrived configured to filter 28 categories, most of which are not required by CIPA. Based on the titles of these categories I believe that the following are out of scope of the intent of CIPA for a public library: Alcohol, Alternative Lifestyles, Criminal Skills,

Extreme, Gambling, Hate Speech, Humor, Journals and Blogs, Match Making, Occult, Profanity, Substance Abuse, Weapons. “Alternative Lifestyles” has already been determined to advance viewpoint discrimination. A category such as “Occult” also discriminates on the basis of religion; the category incorporates a broad selection of non-Christian spiritual practices, and diminishes their credibility as acceptable beliefs. The practices employed to comply with CIPA have been overbroad. As Chief Justice Rehnquist wrote in 2003 “To address the problems associated with the availability of Internet pornography in public libraries, Congress enacted the Children’s Internet Protection Act (CIPA).” The intent was to manage the vast array of sexually explicit material readily available on the Internet, and nothing more.

Director Wofford accepted these implementations without question, although the MoreNet Service policy states that the “Member is responsible for determining the categories and individual websites that are allowed or blocked” (MoreNet Internet Content Filtering). MoreNet in effect delivers a technical filtering solution, but each library is responsible for addressing the issues of content limitations. The initial 28 categories changed in February, 2011 to 11 categories and by July 31, 2011, the number of categories had been reduced to 5. According to information provided by Connie Stickney, of MoreNet, in her deposition of August, 2012, the reduction occurred “because of lawsuits from the ACLU and we determined that we were blocking too many categories by default and so we decided to only block those that – by default was considered harmful” (p. 39). The five default categories provided by MoreNet in July 2011 included only two content based categories, Adult Image and Pornography. These adhere more closely to the intent of Congress, the judgment of the Supreme Court and the recommendations to practitioners of the American Library Association.

In July 2011, Director Wofford indicates that when MoreNet reduced the blocked categories she “took their default setting and added chatting” (Wofford deposition, p. 92). She indicates that she was unconcerned with any overblocking that occurred in accepting the default settings from the vendor (Wofford deposition, p. 90) although she also indicated that CIPA was the only factor in implementing the filtering solution (Wofford deposition, p. 102). It is evident that the Salem Public Library allowed a non-library service provider with no accountability to the public to

determine the availability of library resources. This does not meet the standards of public library service.

The impact of the failure to meet the standards of professional practice regarding filtering in response to CIPA requirements becomes clear with respect to the Anaka Hunter complaint. In October and November, 2010, specifically, Hunter used public access computers at the Salem Public Library to search for information on Native American religious practices, meditation, yoga and Wicca. The material she wished to access was blocked by the library's Netsweeper software and identified as belonging to a category of "Occult" web sites.

Hunter asked Wofford to unblock these sites, and, based on Wofford's notes recording her exchanges with Hunter, library staff accommodated on a site by site basis (11/6/10). Wofford offered to secure permanent unblocking for a list of sites if Hunter would provide it, but Hunter claimed the requirement she produce a list was an invasion of privacy (10/29/10). Wofford was fully aware that the "Occult" category was not an element addressed by CIPA regulations (Wofford deposition, p. 142). While she was willing and able to unblock sites within that category, she was unwilling to authorize the elimination of the "Occult" category. According to her deposition, she did not believe the board of trustees understood the difference between a site and a category of sites (Wofford deposition, p. 151). It is the responsibility of the director, as noted above, to educate the board relative to the drafting and implementation of policy. It was incumbent upon Wofford to explain, at that point, what the difference was and what it meant relative to Hunter's complaint, regardless of her understanding of who controlled the actual filtering categories. However, it is the board of trustees' responsibility to ensure that the policies of the library conform to the legal and ethical practices of the profession.

While small libraries with small service areas seldom have a professional librarian in the library administration, the various states do support these institutions with access to conferences addressing professional issues, training and certification classes and support associations. In Missouri, one such institution would be the Missouri Public Library Directors, of which Ms. Wofford is a member. Meetings at the State Library often facilitate information about library practices, as Ms. Wofford notes in her discussion of the need to change the legal age for requesting unblocking of Internet sites. State support is supplemented by the extensive array of

resources addressing the development and implementations of library policies according to national standards provided by the American Library Association, as addressed above. The Salem Public Library is aware of the role of the American Library Association, as indicated by their incorporation of the Library Bill of Rights and its commitment to American Library Association standards.

V. Whether Salem Public Library Met The Standards Articulated Above With Respect to Confidentiality and Privacy.

Hunter's articulated concern about privacy is validated by the chain of events: a log of her activities relative to the library was collected by the library and released to the police, without subpoena. The Salem Public Library has no policy on patron privacy. The documents included in the broader "by-laws" document discuss only how to go about implementing a privacy policy. It appears that the policy itself was never written nor adopted by the board (pp. 32-33). The maintenance of computer sign-in sheets over a period of years is not required to be CIPA compliant and also fails to comply with the Missouri Public Records Retention schedule. The ability to clearly link a user to an attempt to access a site blocked through the Netsweeper software also expands on the Missouri Public Records Retention schedule LIB 005, which indicates that only information about the date, time and user be collected, and then destroyed once the statistical data is collected. Personal public library records enjoy a high degree of protection across the 50 states in order to support access to information without fear of surveillance, which could have a chilling effect on use of publicly available resources. The Salem Public Library is out of compliance not only with best practices regarding patron privacy, but state law.

VI. Final Summary

While the Salem Public Library enjoys a high degree of autonomy relative to its local governing bodies, it does not have the authority to constrain federal civil rights. Despite written commitments to American Library Association standards of library practice which advance a high degree of protection for the First Amendment rights of library users to access and receive information, the Salem Public Library does not act to protect those rights. In fact, the Salem

Public Library abrogates its responsibility to protect those rights by allowing the software vendor to determine what categories of content to filter for the Salem Public Library.

As the series of exchanges with Anaka Hunter clearly demonstrate, the Salem Public Library does not protect an adult's right of open access to Internet resources. It does not respect the intent of the CIPA legislation to ensure ready access to information resources for adults. The Salem Public Library did not act to reduce exposed viewpoint discrimination in the Occult category. Despite the knowledge that the Occult was not a category required by CIPA, and the ability to disable the filter, the director left the category in place, and placed a burden on the patron in gaining access to constitutionally protected speech for research. Finally, the Salem Public Library did not protect patron privacy in the case of Anaka Hunter, as information about her library activities were given to the local police without any subpoena. The library continues to violate patron privacy with the computer sign-in sheets that allow an individual to be identified as accessing any blocked Internet categories through the MoreNet filtering application.

VII. Resources

ALA. 1996. *Library Bill of Rights*.

<http://www.ala.org/ala/issuesadvocacy/intfreedom/librarybill/index.cfm>.

ALA. 2008. *Code of Ethics*.

<http://www.ala.org/advocacy/proethics/codeofethics/codeethics>

ALA. 2009. *Access to Digital Information, Services, and Networks: An Interpretation of the Library Bill of Rights*.

<http://www.ala.org/ala/issuesadvocacy/intfreedom/librarybill/interpretations/accessdigital.cfm>.

ALA. 2000. *Guidelines and Considerations for Developing a Public Library Internet Use Policy*.

<http://www.ala.org/template.cfm?section=otherpolicies&template=/contentmanagement/contentdisplay.cfm&contentid=13098>

ALA/APA. *Certified public library administrator program. Definition of a public library*.

<http://ala-apa.org/certification/application/definition-of-a-public-library/>

Ennis, Bruce T. *ALA Intellectual Freedom Policies and the First Amendment*.

<http://www.ala.org/offices/oif/basics/alaintellectual>

Missouri Public Library Standards. 2005.

<http://www.sos.mo.gov/library/libstan.pdf>

Missouri Revised Statutes Chapter 109 (Public and Business Records) Section 255

Preer, Jean. 2008. *Library Ethics*. Westport, CT: Libraries Unlimited.

UNITED STATES et al. v. AMERICAN LIBRARY ASSOCIATION, INC., et al.

<http://www.law.cornell.edu/supct/html/02-361.ZS.html>