ALA SURVEILLANCE
RESOLUTION

ILF District 1 Conference
May 10, 2016
Michigan City, IN
Some personal “stuff” first

• Almost 40 years fighting the good fight
  (Pardon if this sounds like bragging, there’s a point)

  • Advocating Intellectual Freedom
  • Opposing Censorship

• Privacy has become a major concern, the focus of this effort only in the last 10 or so years – post 9/11

• Still “fuzzy” on all of its issues

  • ALA Privacy Subcommittee & its Privacy Tool Kit
Background

- Intellectual Freedom, Privacy and Confidentiality
  - Intellectual Freedom explicitly affirmed in the Bill of Rights
  - Privacy implied in the Bill of Rights
  - Privacy necessary for the full exercise Intellectual Freedom
• **Intellectual Freedom**
  
  • The freedom to read, view, listen to, or otherwise access whatever *you* choose.

• **Privacy**
  
  • Is the condition that allows you to exercise your intellectual freedom without fear that someone (government) is monitoring you.
Objections

• If you don’t have anything to hide (something “baaaaad”),
  
  • *why do you care?*

• The government may “need” this information.
  
  • *To fight crime*
  • *To prevent terrorist acts*
Pre-9/11

- Government surveillance
  - Was a *long standing practice*
  - Required “*Probable Cause*”
- Experienced *Periodic Abuses*
  - Cold War – FBI Awareness Program
  - Vietnam – Agent Provocateurs. Mail Interception and Inspection, etc.
Post-9/11

- Many previously illegal practices - *legalized*.

- Use of intrusive measures & gag orders - *expanded*.

- Court supervision - *diminished or eliminated* (administrative subpoenas)

- New, secret programs - *instituted*
  
  - Became known due to whistleblowers
Other Tech Threats to Privacy

• Us
  • *Sloppy* data management
  • *Uncritical* acceptance of licensing language

• Commercial interest
  • *Vendors* – selling our patrons information
  • *Business in general* – convenience cards, targeted marketing
Boston Resolution

- ALA Council has a long history of
  - resolutions *affirming privacy*
  - resolutions *opposing surveillance*

- **Actors** who implement resolutions are
  - Office for Intellectual Freedom – *public campaigns*
  - Freedom to Read Foundations – *court challenges*
  - Washington Office – *vigorous coalition building & lobbying*
Origins of Privacy Resolutions

• ALA Council Committees
  • Intellectual Freedom Committee, IFC
  • Committee on Legislation, COL

• Round Tables with Councilors
  • E.g., Social Responsibilities Round Table, SRRT

• Any member by petition via Membership Meetings
Stereotypes

- IFC
  - Tends to defend *principles above practicality*

- COL
  - Tends to defend *practicality above principles*

- SRRT
  - Tends to *push the limits* — all or nothing
San Francisco, 2016

- Two surveillance resolutions prepared and presented to ALA Council
  - Joint IFC / COL resolution – principled practicality
  - SRRT – pushed the envelope
- “Serious” debate at Council
- Referred to a joint working group (8 members, 4 staff)
  - SRRT – Al Kagan, Laura Kultutsky
  - IFC – Pam Klipsch, Doug Archer
  - COL – Ann Eubank, Kent Oliver
  - Council – Aaron Dobbs, Jim Neal
Working Group / Sub Group

- Drafting subgroup – Aaron, Laura & Doug
  - Council rep (Aaron Dobbs) merged the two resolutions
  - Line by line review until consensus reached

- Full working group did periodic reviews
  - Final draft received line by line review until consensus reached
  - All three groups then approved text.

- ALA Council in Boston – Unanimous Approval (rare!)
The Resolution – Where ALA Stands

- 2015-2016 ALA CD#19.1_11216_FINAL
- 2016 ALA Midwinter Meeting

This resolution was adopted by the ALA Council on Tuesday, January 12, 2016

RESOLUTION FOR RESTORING CIVIL LIBERTIES AND OPPOSING MASS SURVEILLANCE


• Whereas the American Library Association (ALA) has *always supported* the fundamental principles of *government transparency and public accountability* that undergird the People’s right to know about the workings of our government and to participate in our democracy;
• Whereas the ALA "values access to the documents disclosing the extent of public surveillance and government secrecy as access to these documents now enables the critical public discourse and debate needed to address the balance between our civil liberties and national security" (2012-2013 ALA CD#19.2 and CD#20.40);
• Whereas the ALA reaffirms that "these disclosures enable libraries to support public discourse and debate by providing information and resources and for deliberative dialogue and community engagement" (2012-2013 ALA CD#19.2 and CD#20.40);
• Whereas the nation’s intelligence and law enforcement agencies *conduct surveillance activities pursuant to multiple legal authorities*, including Executive Order 12333, the Foreign Intelligence Surveillance Act (FISA) as amended, the USA PATRIOT Act, and the USA FREEDOM Act;
Whereas the ALA defends privacy rights and supports government transparency and accountability; and

Whereas passage of the USA FREEDOM Act meaningfully contributed to recalibration of the nation’s privacy and surveillance laws, restoring civil liberties, but accomplished only a fraction of all such necessary change; now, therefore, be it
• Resolved, that the American Library Association (ALA), on behalf of its members and the public interest:

• 1. urges the President and Congress to amend all germane surveillance-enabling authorities, such as Executive Order 12333, the Foreign Intelligence Surveillance Act (FISA) as amended, and the USA PATRIOT Act, to:
• A. **Require** government agencies to obtain *judicial warrants* before collecting any individual’s personal information from *third parties* and require court approval for *National Security Letters*;

• B. Raise the standard for government collection of all records under FISA from “reasonable grounds” to “*probable cause*” *and sunset Section 215* of the USA PATRIOT ACT (commonly known as the "library records" section);
C. *Limit* the government’s ability to use information gathered under intelligence authorities in *unrelated* criminal cases, thereby making it easier to challenge the use of illegally obtained surveillance information in criminal proceedings; and

D. *Prohibit the government from requiring hardware and software companies to deliberately design encryption* and other security features to facilitate government access to information otherwise protected by such features;
• 2. *recommits itself to leadership* in the fight for restoration of the public’s privacy and civil liberties through statutory and other legal reforms; and

• 3. *commends and thanks all parties*, both inside and outside of government, involved in developing and securing passage of the USA FREEDOM Act, resulting in movement away from overbroad surveillance laws and practices for the first time in more than a decade.
• Adopted by the Council of the American Library Association Tuesday, January 12, 2016, in Boston, Massachusetts

• Keith Michael Fiels

• Executive Director and Secretary of the ALA Council
Outcomes

• Allowed ALA to respond immediately to calls for Apple to break its encryption on the Santa Barbara iPhone

• Empowered ALA staff (especially Washington Office and Office for Intellectual Freedom) to be active partners in various coalitions seeking changes in legislation and administrative policy

• Provided librarians with principle support when faced with local threats to privacy
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- ALA IFC, Past Chair
- ILF IFC, Past Chair
- FTRF, Trustee
- ALA Councilor at Large