

# IFLA/FAIFE World Report: Libraries and Intellectual Freedom



## Canada

22 November 2000

### 1. Internet

#### Internet Filtering Software

The use of filtering software products to suppress Internet content in public and school libraries continues to be a national issue. (See Alvin Schrader's online paper entitled "Internet Filters: Library Access Issues in a Cyberspace World" at <http://archive.ifla.org/faife/papers/others/schrader.htm>; an abbreviated version of this paper was read by invitation at the Open Session on August 25, 1999 sponsored by the IFLA/FAIFE Committee as part of the 65<sup>th</sup> annual general conference of the International Federation of Library Associations and Institutions held in Bangkok, Thailand, August 20-28, 1999.)

<b>Population:</b>	29,680,000 (1996)
<b>GNP per capita:</b>	\$ 19,020 (1996)
<b>Government / Constitution:</b>	Parliamentary
<b>Main languages:</b>	English, French
<b>Main religions:</b>	Roman Catholicism, Protestantism
<b>Literacy:</b>	97% (1995)
<b>Online:</b>	56.0% (March 2000)

Although complaints have been few and sporadic, confusion and fear among the general public are regularly fuelled by media distortions in which journalists and newspaper columnists charge that children and young people are being deluged with inappropriate and "harmful" images via the Internet. In 1998, the Canadian Library Association (CLA) responded by approving a "Statement on Internet Access", available at <http://www.cla.ca/about/internet.htm>.

#### Internet Safety Brochure

As a further proactive measure, CLA initiated a brochure on Internet safety for parents and children entitled "*Have a Safe Trip! A Parent's Guide to Safety on the Internet*", available at <http://www.cla.ca/resources/safetrip.htm>.

The brochure was drafted by Dr. Alvin Schrader, then a member of the Executive Council of the Association and Director of the School of Library and Information Studies at the University of Alberta, and Joanne Griener, Manager of the Southgate Branch of the Edmonton Public Library, with the collaboration of a large number of librarians and help from CLA staff. The brochure relates the Canadian Library Association's policy on filtering software to its long-standing Statement on Intellectual Freedom, which is available at <http://www.cla.ca/about/intfreed.htm>.

The brochure stresses the essential role of parental guidance to children using the Internet and urges parents to become actively involved in assisting children in accessing all resources available at the library. It states further that CLA believes the best and most reliable filter is a child's parent or guardian, and that the values and skills of young people are the major means by which their well-being is safeguarded.

The brochure was released at CLA's annual conference in June 1998 in Victoria, and within less than a year 50,000 copies had been distributed primarily through public libraries across Canada; since then another 200,000 copies have been printed and it is now being revised to reflect the findings of the CLA Task Force on Internet Service in Public Libraries (see below).

#### Internet Service in Public Libraries

In November 1999, the Executive Council of the Canadian Library Association formed the Task Force on Internet Service in Public Libraries (*Feliciter* v. 46, no. 2, 2000, pp. 69-72). The task force was formed to develop tools, strategies, and communications plans that would allow the Association to play a public leadership role on the issues related to the provision (and defence) of Internet services in public libraries, within the Association's agreed upon principles, and specifically within those set forth in the CLA Statement on Intellectual Freedom (1985) and the CLA Statement on Information and Telecommunication Access Principles (1994), and, by extension, within the framework of Canadian laws such as the Canadian Charter of Rights and Freedoms and the Criminal Code, and of international agreements such as

the UN Universal Declaration of Human Rights (1948), the UN Convention on the Rights of the Child (1989).

Much of the controversy resulting from the provision of Internet services in Canadian public libraries has focussed on children's access to what many consider to be inappropriate content. For over a century, Canadian public libraries have nurtured a special relationship of trust in their communities with regard to the provision of collections and services aimed at children. That trust has many dimensions, including the trust of parents that public libraries will respect the values of families, let children choose materials for themselves, and encourage parents to monitor and guide these choices. In that Internet access in public libraries broadens the range of choices to unregulated, unselected, and even illegal content, it has the potential to jeopardize this relationship in many Canadian communities.

Librarians have been challenged by citizens, and in frequently sensationalized media coverage, to defend policies which do not restrict a child's access to materials which are considered by many to be offensive and inappropriate. The ability of children to access pornography in public libraries is the most common complaint, and there is a public perception that Internet filtering is a simple and comprehensive solution to the problem.

The Task Force concluded that the issues surrounding the provision of Internet services in public libraries warrant the development of a series of tools to assist Association members in taking an active leadership role in raising community awareness of Internet service. The tools must also defend the principles of intellectual freedom and universal access that are the foundations of the Canadian public library community and the Canadian Library Association.

The Task Force also stated that the Association is committed to continuous communication to further define the issues, and that it would monitor the legal, community and library environment, endeavour to ensure that the issues are discussed within its agreed principles, and promote the creation and use of tools for local action.

In addition, the Task Force report recommended to CLA that libraries be encouraged:

- To offer Internet access with the fewest possible restrictions.
- To familiarize themselves, their governing bodies and their communities with the legal issues surrounding the provision of Internet access and to integrate such legal reference points into their access policies.
- To incorporate Internet use principles into overall policies on access to library resources, including time, place, and manner restrictions on Internet use, and user behaviour policies and to publicize these policies widely and post them prominently in library facilities and on electronic media.
- To safeguard the long-standing relationship of trust between libraries and children, their parents and guardians, in developing Internet use policies and practices, acknowledging the rights and responsibilities of parents and guardians.
- To create library Web pages consistent with resource priorities that point to appropriately reviewed sites both for general use and for use by children.
- To educate their publics about intellectual freedom principles and the shared responsibility of public and school libraries, parents, and guardians in facilitating access to resources in various forms of media including the Internet, and
- To assume active leadership in community awareness of, and dialogue on, the issues inherent in the informed use of this essential, yet non-selective and unregulated medium in libraries.

The report of the Task Force, entitled "Internet Service in Public Libraries: A Matter of Trust", was approved by the Executive Council in February 2000. It is available at <http://www.cla.ca/resources/internetservice.htm>.

### **Legal Issues Resulting from Internet Use in Public Libraries**

To date, no aspect of the provision of Internet services by public libraries has been challenged in Canadian courts. However, several public libraries in Canada have sought legal opinions on the provision of these services to inform their policy development.

The legal opinions offered to individual library boards and at CLA annual conferences are very similar (*Feliciter*, v. 46, no. 1, 2000, pp. 18-19). They consider the provision of Internet service in the context of the Canadian Criminal Code and the Charter of Rights and Freedoms. In summary, the opinions advise that:

- Public libraries in Canada face some risk of liability as Internet access providers, resulting from Criminal Code provisions dealing with obscenity and child pornography.
- Public libraries are likely subject to the Charter of Rights and Freedoms, which protects freedom of expression subject to reasonable limits.
- Public libraries can minimize their liability by exercising due diligence to prevent illegal behaviour, and ensuring that they are not willfully blind to illegal behaviour.
- Due diligence includes a wide range of measures, appropriate to the extent and nature of an entity's activities, to prevent and correct violations of the law.

Clearly, it is the responsibility of public library boards and staff in Canada to understand the legal framework, risks and potential remedies for the provision of Internet services and to familiarize their communities with their policies and actions

in this regard.

CLA has noted a growing trend to filter children's workstations in public libraries as a component of due diligence being exercised locally, in spite of the well-documented limitations of filtering software. While a decision to filter may help to resolve community concerns, many recognize that filtering is simply one of several means available to deal with the issue of children and the Internet. The filtering of terminals in children's areas can coexist with full access elsewhere in the library and preserve a range of choice consistent with public library principles.

### **Media Awareness Network**

In 1999 CLA became a member of the Media Awareness Network <http://www.media-awareness.ca>. See also an article in *Felicitier* (v. 45, no. 4, 1999) by Mary Cavanagh entitled "Web Savvy for Librarians: A Pilot Project", available at <http://www.cla.ca/felicitier/45-4/news3.htm>. The Media Awareness Network produces educational modules in English and French for librarians, educators and parents concerned about the Internet. Its mission is to promote and support media education in Canadian schools, homes and communities through a world-class Internet site.

At the present time, the Network has developed a series of three workshops for Web awareness professional development: "Kids for Sale: Online Marketing to Kids and Privacy Issues"; "Safe Passage: Teaching Kids to be Safe and Responsible Online"; and "Fact or Folly: Authentication of Online Information". These workshops are designed for classroom teachers, school librarians, public librarians, and public library trustees.

Originally established in 1995 under the auspices of the national Film Board of Canada as a clearinghouse on media education and media violence, the Network grew out of a recommendation made at a roundtable on children and television violence sponsored by the Canadian Radio-television and Telecommunications Commission (CRTC) in November 1993. At that time, the World Wide Web was emerging as the perfect vehicle for sharing information, ideas and resources for media education and public awareness on media issues.

In 1996 it was incorporated as a not-for-profit organization and received charitable status in January 1999. The Network's Web site, one of the largest educational sites in Canada, has been online since May 1996 and provides both curriculum-related media and Web literacy teaching materials for schools, and media awareness resources for community organizations.

The Network aims to encourage critical thinking about media information, media entertainment and new communications technologies, and to stimulate public debate about the power of the media in the lives of children and young people. Their work is based on the premise that to be functionally literate in the world today, young people need critical thinking skills to "read" all the messages that are informing, entertaining and selling to them every day.

The Network is a world leader in providing educational approaches to emerging Internet-related issues, and is committed to maximizing the positive aspects of all media for the benefit of children and young people.

### **Internet Regulation**

After public hearings regarding regulation begun in November 1998, the Canadian Radio-television and Telecommunications Commission (CRTC) announced in May 1999 that it had no mandate to regulate the Internet, concluding that communication in cyberspace was not broadcasting. The CRTC announced it would not act as a watchdog over the immense network. The full account of the CRTC finding can be found at <http://insight.cas.mcmaster.ca/org/efc/efc-archives.html>.

### **2. "Son of Sam" legislation**

So-called "Son of Sam" legislation was quashed by the Canadian Senate in June of 1998. Bill C-220 would have prohibited convicted criminals from profiting from writing about their crimes by confiscating the copyright flowing from books or movies. It had earlier passed in the House of Commons quietly with nary a protest. The Writers' Union of Canada and PEN Canada had argued before the Senate committee considering the Bill that it would violate freedom of expression and was in effect a permanent gag on anyone convicted of a crime.

### **3. Public Library Meeting Room Policy**

The use by an extreme right-wing group of a meeting room at the Greater Victoria Public Library was a volatile and emotionally charged issue in 1998 and 1999. Despite pressure from anti-hate groups, the Library Board reaffirmed its policy of permitting meeting room access to any legally constituted group regardless of political creed and refused to act in place of duly authorized political and police authorities to initiate actions leading to curtailment of basic civil liberties.

The Canadian Library Association has unequivocally supported the position of the Library Board and passed a resolution during its annual general meeting in Victoria in June 1998 to endorse the Greater Victoria Public Library's decision to allow any group, even those whose beliefs may be objectionable to society at large, to use their meeting rooms for lawful purposes. At the same time CLA passed a further resolution opposing racism of any kind and affirming the inclusive principles of public library service and access.

The issue of an open meeting room policy was also the topic of a general session at the annual conference of the Canadian Library Association in June 2000 in Edmonton, Alberta.

#### **4. Intellectual Freedom Award**

Little Sister's Book & Art Emporium in Vancouver, British Columbia, was the recipient of the 1998 CLA Award for the Advancement of Intellectual Freedom in Canada. The Award was made at the annual conference in June for the bookstore's courage and determination in challenging what they believe to be systematic discrimination against gays and lesbians by Canada Customs in the seizure of materials by Canada Customs. Little Sister's, which sells gay and lesbian literature, challenged the jurisdiction of Canadian Customs officers to randomly seize materials at the Canadian border.

The 1999 CLA Award for the Advancement of Intellectual Freedom in Canada was awarded to the Greater Victoria Public Library. This award recognized the Library's adherence to an open meeting room policy (see above).

#### **5. Freedom to Read Week**

The seventeenth annual "Freedom to Read Week" takes place February 25 to March 3, 2001. This event is sponsored by the Book and Periodical Council, an umbrella organization covering some twenty-five associations including the Canadian Library Association. The Council produces a "Freedom to Read Week" kit containing a poster, clip art, case studies of threats to intellectual freedom in any medium, many suggestions on how individuals, schools, libraries, and even municipalities can celebrate, a selective list of materials challenged in the past 15 years in Canadian schools, libraries, or bookstores, and a reading list.

Freedom to Read Week reaffirms the commitment of the Canadian publishing and library communities to the democratic principles of freedom of expression. Even in Canada, a free country by world standards, books and magazines are banned at the border; books are removed from the shelves in Canadian libraries, schools and bookstores every day; and free speech on the Internet is under attack. Few of these stories make headlines, but they affect the right of Canadians to decide for themselves what they choose to read.

Freedom to Read Week encourages Canadians to think about and reaffirm their commitment to intellectual freedom, which is guaranteed them under the Charter of Rights and Freedoms. The Freedom to Read Week Web site is located at <http://www.freedomtoread.ca/>.

#### **6. Telephone Industry Deregulation**

The deregulation of the telephone industry by the Canadian Radio-television and Telecommunications Commission (CRTC) continues to impact information access issues. Dramatic increases in local telephone costs make an individual's access to basic telecommunications services more difficult in remote access areas. Similarly, computer hardware and Internet costs persists in increasing the gap between the information "have's" and "have-nots". Because of limited budgets, public libraries are only partially able to ameliorate the effects of these conditions through the provision of free Internet access terminals. The CRTC has to date failed to acknowledge the negative impact on public library services of unsubsidized high cost service areas.

#### **7. Information Rights Week**

The Canadian Library Association annually sponsors "Information Rights Week" in the spring to promote awareness of information policy issues and help educate Canadians about matters such as the information highway, privacy, and access to government information. The 2000 Information Rights Week, April 3-10, theme was "Information Matters: Evaluate It Before You Use It," highlighting the need to promote public attention on assessing the integrity and reliability of information resources in traditional and new media.

#### **8. International Human Rights Conference**

An international conference to celebrate the fiftieth anniversary of the passage of the Universal Declaration of Human Rights was held in Edmonton, Alberta November 26-28, 1998. Sponsored by the University of Alberta and the Canadian Human Rights Foundation, it was the premiere world event to mark the occasion, attended by 700 delegates from more than 30 countries and attracting such renowned and compelling speakers as Archbishop Desmond Tutu, UN Human Rights Commissioner Mary Robinson, Supreme Court of Canada Chief Justice Antonio Lamer, Nigerian human rights activist Owens Wiwa, Amnesty International Canada Secretary-General Roger Clark, International Criminal Tribunal for the Former Yugoslavia Judge Jules Deschenes, Vietnamese human rights activist Doan Viet Hoat, Chinese human rights activist Wei Jingsheng, and many other human rights activists and advocates.

Although the connection between universal human rights and library advocacy of intellectual freedom was not explicitly recognized by any of the conference speakers, the conference did serve to highlight the urgent need within the international library community to articulate more clearly its role and responsibility in the human rights movement. See my guest editorial "The 'Stretch' from Human Rights to Information Rights" in *Feliciter*, v. 45, no. 1, 1999, pp. 10-11.

#### **9. Provincial Funding of Ontario Public Libraries**

For the first time in 115 years, the government of the Province of Ontario served notice in January 1997 that it would eliminate provincial funding support of public libraries. Bill 109 also provided for the removal of the requirement for citizen participation on public library boards and opened the door to user fees for borrowing non-print materials and for reference services. Although provincial government funding accounted for only 5%-6% of public library revenues, with local municipalities providing the bulk of financial support, the defunding of public libraries in the Bill was considered a more devastating threat to the integrity of public libraries than assaults by book-banners and Internet critics. In November 1997, the government abruptly withdrew the Bill and restored provincial funding.

#### **10. Child Pornography Possession Law Challenged**

The Supreme Court of Canada will rule shortly on an appeal of a British Columbia Supreme Court judgment in early 2000 that Bill C-128, an anti-child pornography law, was unconstitutional. The judgment found that the law was overbroad in treating possession of personal writings that did not involve real children in the same way as actual sexual exploitation. Bill C-128 made it a criminal offence to produce, distribute, or possess material, visual or written, that describes explicit sexual activity involving individuals who are or who appear to be under the age of 18. No distinction was made in the law between the abuse of children in creating pornography and representations in legitimate art, literature, public information, and political activity.

#### **11. Greater Victoria Public Library Board Apology to Fired Employee John Marshall**

In 1954, the Greater Victoria Public Library Board fired one of its employees, John Marshall, because of his alleged left-wing political affiliations. Although he denied being a Communist, the mayor of Victoria threatened to burn subversive library books and the chief librarian resigned over the controversy. Almost a half-century later, in November 1998, the Board presented a public apology to John Marshall for its mistreatment of him. It also announced that the British Columbia Library Association would name its intellectual freedom award in his honour.