TO: ALA Executive Board

RE: Report on Washington Office Activities

ACTION REQUESTED/INFORMATION/REPORT:
For information purposes. No actions requested.

ACTION REQUESTED BY:
No action requested.

CONTACT PERSON:
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DRAFT OF MOTION:
None

DATE:
December 18, 2015

BACKGROUND:
The report provides information on recent ALA Washington Office initiatives and projects.
ALA Washington Office Activities

ALA Co-hosts Reception for new IMLS Director

The ALA Washington Office co-hosted a reception with the American Alliance of Museums to welcome Dr. Kathryn Matthew as the new Director of the Institute of Museum and Library Services. Dr. Matthew was nominated by President Obama on March 10, 2015 to be IMLS Director and was confirmed by the Senate on September 22, 2015. She was sworn in as Director October 1, 2015.

The reception was in a private dining room of the Newseum and we had a four-piece ensemble to play background music. The reception was attended by our Washington supporters including staff and officials from Congress, the Library of Congress, National Archives and other library associations.

Government Officials Meet with ALA leaders

During the Libraries Transform national campaign launch in Washington, ALA President Sari Feldman took part in high level meetings at the Department of Labor (DOL) and at the Library of Congress. DOL officials discussed collaborative opportunities with the ALA leadership through the Workforce Investment program; while at the Library of Congress they met with Acting Librarian of Congress David Mao and Chief of Staff Robert Newlen, who said they welcome the chance to work closely with ALA.

Libraries Transform Launch Generates National Media Coverage

ALA Washington Office pitched several media outlets to cover the national launch by ALA President Sari Feldman of the Libraries Transform initiative. One result was that NBC TV news sent a camera crew who taped an interview with Sari at Thomson Elementary School, one of the four libraries on the October 29 tour. They also taped footage and interviews at the MLK Jr. Public Library. The story was produced and transmitted as a package to NBC affiliates around the country in advance of Thanksgiving telling how libraries transform communities, schools and the lives of library patrons as they provide the resources for a better quality of life. It was carried by NBC affiliates around the country reaching viewers nationwide.

As a follow-up to the national launch, the Chronicle of Higher Education, the leading magazine covering universities and colleges, conducted an on-camera interview with Sari about how libraries are transforming campuses with advanced technologies, training on new software tools and collaborative learning opportunities. A print version of the “On Leadership” interview accompanied the video and was also published in the December 18 issue of the Chronicle.

ALA Credited as “Winner” of USA FREEDOM Fight by Major Beltway News Outlet

In mid-December, The Hill – perennially one of the top three inside the Beltway news outlets covering Capitol Hill – released its list of the ten “Top lobbying victories of 2015,” identifying the “winners” of selected high-impact lobbying efforts. Under “National Security Agency
Reforms,” *The Hill* named just two non-profit organizations among the winners of the fight to pass the USA FREEDOM Act: the ACLU and the American Library Association.

**Libraries Land Significant Expansion of “AV” Exemption from Digital Millennium Copyright Act**

In late October, the [Librarian of Congress approved a request](http://librarycopyrightalliance.org) filed jointly nearly a year before by the Library Copyright Alliance (ALA, ACRL and ARL), educators and academic institutions to expand the permissible use of “clips” from copyrighted motion pictures in several ways within the higher education community and, notably, to extend this “Section 1201 exemption” to include K-12 settings. The Librarian also extended the exemption to Massive Open Online Courses (MOOCs) and to digital and media literacy programs offered by libraries and museums.

**ALA Continues Central Role in Influential New Copyright Coalition**

The Washington Office continues to participate actively in Re:Create, the public and private sector coalition dedicated to “rebalancing” copyright law in the public interest that launched with support from Google last spring. Recent activity has included: 1) meeting in private session with John Morris, Associate Administrator and Director of Internet Policy for the [National Telecommunications and Information Administration](https://www.ntia.doc.gov); 2) strongly endorsing broad reform of Section 1201 of the Digital Millennium Copyright Act that requires libraries, researchers and many others to seek exemption every three years from the law’s prohibition on “circumventing” encryption and other “technological protection measures;” and 3) publicly opposing reconstitution of the U.S. Copyright Office as an independent agency while strongly endorsing the Office’s technological modernization. ALA also joined with other coalition members to assure that a [December 2 Committee on House Administration hearing](http://librarycopyrightalliance.org) on Copyright Office modernization did not evolve into an opportunity for the Register of Copyrights to solicit Committee support for organizationally divorcing her Office from the Library of Congress and, with it, the Librarian’s oversight authority. Legislation to take the Copyright Office out of the Library and establish it as an “autonomous agency” elsewhere in the Legislative Branch, [H.R. 4241](http://www.congress.gov), was introduced on December 11 by Rep. Tom Marino (R-PA10), with two additional cosponsors.
Office of Government Relations

School Library Legislation Becomes Law!

After years of needing change and a decade of ALA advocacy, the Senate and House finally agreed upon a new education bill that the President then signed into law. The Every Student Succeeds Act includes many school library provisions that were not present in the previous legislation and, due in large part to ALA’s grassroots efforts, they were accepted by both the House and Senate. An interview with Education Week arranged by ALA’s Washington Office led to Sari Feldman being quoted in a story highlighting the favorable positioning for libraries within the language of the new law.

OGR Gets Google Grants to Boost Federal Advocacy, Issue Awareness by Key Legislators

OGR has received $25,000 through Google’s Washington-based policy office to underwrite two initiatives. The first will be a series of approximately ten 3-5 minute “Federal Advocacy 101”-style videos to be jointly written and produced in calendar year 2016 with the Harry Potter Alliance and jointly “marketed” to that influential grassroots group’s members in the 13 – 22 age cohort. The second will fund approximately four to six “roundtable” events in 2016 at prominent 21st century libraries across the country. Each will focus on a single issue theme, such as balanced copyright, and will bring together a key Member of Congress who represents the host library, allied local community organizations (or potential allies), and members of the public for a broad discussion and informal lunch or reception.

Committee on Legislation Successfully “Retreats” to Washington

In early October, the Office of Government Relations welcomed the Committee on Legislation back to Washington for a hoped-for annual retreat. The two days of meetings featured in depth issue briefings by OGR staff, guest presentations by senior education staff to Sen. John Cornyn and senior privacy counsel for coalition partner Google. It also featured a lunch briefing at Google’s Washington offices on the origins and agenda of Re:Create, the broad copyright coalition co-founded by ALA.

Federal Funding for Libraries, Policy Riders on Appropriations Bill

The Omnibus spending bill released by Congress the week of December 14 provided mostly good news for librarians. Congress easily passed, and the President signed, the $1.1 trillion spending package on December 18. The final budget provided a welcome increase for Library Services and Technology Act (LSTA) and Innovative Approaches to Literacy (IAL). LSTA will receive $182,944,000 in FY16 (up from $180,909,000 in FY15), which includes $941,000 in additional funding above FY15 levels for Grants to State Library Agencies, $202,000 in additional funding for Native American Library Services, and $892,000 in additional funding for National Leadership Libraries. IAL will receive $27,000,000 in FY16 (up from $25,000,000 in FY15). (See FY 2016 Library Funding Chart; excel spreadsheet updated on 12/17/15 to reflect numbers in Omnibus spending bill).
A threatened rider to the Omnibus appropriations bill that would have prohibited the FCC from implementing its Open Internet Order (Net Neutrality) failed in the final hours of negotiations. ALA strongly opposed the inclusion of this rider at several key points during the process, including a letter to Congressional Leadership days before the funding bill was released. The rider was included in earlier appropriations bills.

An additional “rider” creating significant and privacy-unfriendly “cybersecurity” law also was included in the bill (please see next entry).

**Privacy-Hostile Cybersecurity/“Information Sharing” Bill Also Passed as Part of Omnibus**

With Senate passage of the Cybersecurity Information Sharing Act (S. 754) or “CISA” in late October, staff to the House and Senate Chairs of relevant Committees had been working to reconcile the chambers’ disparate approaches and multiple passed bills. In early December, however, word reached ALA and other members of the broad coalition working to safeguard personal privacy that the Senate and House Intelligence Committee Chairs had reached agreement on a privacy-invasive bill without adequately consulting with the House Committee on Homeland Security and its more moderate Chairman Michael McCaul (R-TX10).

Together with its allies, as it had the previous summer when precipitous movement on CISA was imminent, ALA contributed significantly to a “Twitter storm” of protest that derailed the then-latest in a series of procedural end runs intended to put CISA on the floor of both houses of Congress. In mid-December, however, a deal with Chairman McCaul was struck paving the way for Speaker of the House Paul Ryan to insert new, reconciled legislation (now called the Cybersecurity Act of 2015) into Congress’ massive omnibus spending bill.

With adoption of the omnibus by both chambers of Congress, and the President’s signature, on December 18, the Cybersecurity Act became law notwithstanding strenuous public efforts by ALA President Sari Feldman, ALA’s Washington Office and our many coalition partners in the private and public sectors to yet again derail action on the measure.

**Campaign Against Engineering Mandatory “Back Doors” Into Encryption Systems Continues**

ALA and a score of other national organizations and corporations launched a national campaign at the beginning of this reporting quarter in opposition to efforts by the FBI, NSA and their allies in Congress to require the makers of encryption software or devices that incorporate encryption to build their products so that law enforcement could defeat that encryption if authorized to do so by a court. The centerpiece of the #SaveCrypto effort was a Petition on the White House’s “We the People” website calling on the President to confirm that he opposes such “back door” mandates. If at least 100,000 individuals sign such a petition in 30 days, the White House guarantees a substantive response. With significant assistance from ALA and its grassroots, that goal was reached and the White House has now reached out through an online portal for additional public comment as it drafts a new position paper on the issue. The Office of Government Relations will be calling this opportunity to members’ and the public’s attention. Meantime, legislation on the issue is widely expected to be jointly penned and introduced by Senate Intelligence Committee co-chairs Richard Burr (R-NC) and Dianne Feinstein (D-CA).
Progress Made Toward Update of Electronic Communications Privacy Act (ECPA)

As previously reported in District Dispatch, despite enormous bi-partisan support for the past several years, bills to meaningfully reform ECPA have been bottled up in the House Judiciary Committee. Until recently, despite extraordinary backing (at this writing 306 members of 435 have formally cosponsored the bill), H.R. 699 was no exception. On December 1, however, the House Judiciary Committee held a long-sought and contentious hearing on the bill at which proponents repeatedly pressed the bill’s principal antagonist – Judiciary Committee Chairman Bob Goodlatte (R-VA6) -- to immediately bring it before the Committee for an “up or down” vote. The bill, if passed, finally would require law enforcement authorities to obtain a judicial warrant based on probable cause to obtain the content of personal emails, texts, electronic files, photos and virtually any other private and electronically stored data. Under current law, in most cases, only a subpoena is needed to get such material after it’s more than six months old. ALA has been especially active in coalition with other public and private sector groups on ECPA reform, both in the current Congress and for many years. H.R. 699’s next step is currently unclear.

Revised Council Resolution Regarding Mass Surveillance Clears Joint Body Working Group

A Working Group co-chaired by Committee on Legislation (COL) Chair Ann Ewbank and her Intellectual Freedom Committee (IFC) counterpart, Pam Klipsch, succeeded prior to Thanksgiving in reconciling and revising various versions of a Council resolution in opposition to mass surveillance considered, but not adopted, at ALA’s 2015 Annual Conference in San Francisco. Together with other members of the Working Group representing SRRT, the COL and OIF delegates have vetted the draft language of a revised resolution with their respective Committees (as have SRRT’s delegates). It is the Working Group’s intention to share the draft with the Council listserv prior to conference and, potentially, to discuss it at Council Forum prior to discussing and formally adopting the consensus draft as a joint Resolution of COL and IFC to be presented to Council for consideration at Midwinter in Boston. The Working Group’s efforts were collaboratively supported by Deborah Caldwell-Stone of OIF and Adam Eisgrau of OGR.

ALA Joins Amicus Brief in Potentially Landmark Appellate Court Case to Protect “Metadata”

Under U.S. Fourth Amendment privacy law, a warrant is generally required for law enforcement to listen to the “content” of a protected communication. The judicially-created “third party doctrine,” however, holds that no such warrant is required to obtain “metadata” – such as telephone calling records – associated with that conversation. It is such metadata that the government collected in bulk under Section 215, the “library provision,” of the USA PATRIOT Act. In early November, ALA and the Freedom to Read Foundation joined the Brennan Center for Social Justice, Electronic Privacy Information Center (EPIC), and the National Association of Criminal Defense Lawyers (among others) in filing an amicus curiae brief asking the U.S. Court of Appeals for the Ninth Circuit to repudiate the third party doctrine and to reverse a lower court’s ruling in United States v. Moalin. In it, ALA contends that arguing that the National Security Agency’s (NSA) systematic surveillance and collection of communications metadata,
such as phone numbers dialed and call durations, violates the Fourth Amendment right to privacy.

Federal Info Resource Policy Updated

The document from the Office of Management and Budget (OMB) that establishes policies for federal information resources, *A-130 Circular, Managing Information as a Strategic Resource*, has been updated for the first time since 2000. The ALA joined with 10 other likeminded open government institutions in comments to the OMB.

ALA Participates in Workforce Innovation and Opportunity Act State/Local Partners Meeting

ALA joined in a November Workforce Innovation and Opportunity Act (WIOA) Partners Roundtable to strengthen partnerships between ALA, state and local partners across program areas and levels of government that are essential to serving current and future workers and businesses. WIOA, signed into law July 2014, provides libraries and partners the opportunity to play a significant role in publically-funded workforce development system. ALA joined with COSLA to file comments with the Departments of Education and Labor outlining the essential role libraries play in workforce development (http://www.districtdispatch.org/wp-content/uploads/2015/06/ALA-comment-on-the-WIOA-NPRM-Final.pdf). Final WIOA guidelines are not expected until next year.

ALA Actively Working for Maximum Public Access to CRS Reports

As a matter of policy, the Congressional Research Service notoriously has held its taxpayer-funded reports prepared at the request of Members of Congress confidential, even when those reports broadly address topics of general interest. This fall, together with other prominent organizations dedicated to maximum public access to information, ALA has mounted a concerted lobbying campaign to legislatively compel CRS to make all such reports public promptly except in appropriate and limited circumstances. Legislation is expected to be introduced early in the first quarter of the New Year. Meantime, the issue is getting traction in the private sector and in the press, as well as among Members of Congress.

Librarians of Congress Past and Future

As reported in District Dispatch, legislation to limit the Librarian of Congress’ tenure to a renewable term of 10 years was rapidly introduced in and passed overwhelmingly by Congress in early November. Efforts to replace Dr. James Billington, the previous occupant of the position, continue in high gear behind the scenes with an Administration nomination expected relatively early in the New Year. ALA has urged the President, and the Washington Office continues to encourage White House staff, to nominate a professional librarian for the office. Most recently, Dr. Billington has been named Librarian of Congress Emeritus, which provides him some administrative support for Library of Congress matters.
ALA Celebrates Google Book Search Win for Fair Use

After nearly a decade of litigation (and ALA policy advocacy), the Second Circuit Court of Appeals upheld the district court’s summary judgment that the Google Books Search is a transformative fair use. The court ruling included a statement that “the exclusive rights of copyright do not include the exclusive right to supply information” about books through the searchable index of digitized texts. Even though copyrighted works were scanned in their entirety, the original, creative expression—that which is protected by copyright—is not infringed.

ALA Launches E-rate Clearinghouse

With the Georgia Public Library Service and the Chief Officers of State Library Agencies (COSLA), ALA OITP launched the E-rate Clearinghouse in early November. The idea for the clearinghouse emerged from the ALA E-rate Taskforce in thinking about how to help libraries take advantage of E-rate program changes to support network infrastructure upgrades. The website serves as an aggregator for resources to assist libraries in understanding broadband planning and E-rate funding. The project is funded in part by the Institute of Museum and Library Services (IMLS). It continues ALA’s and COSLA’s work to best leverage federal E-rate opportunities, which we have advocated for by urging the FCC to strengthen library broadband capacity to serve our communities.

ALA Issues Statement, Meets with Major Publishers in NY

In December, President Sari Feldman and other ALA leaders met with senior corporate executives and library marketing executives of Simon & Schuster, HarperCollins, and Penguin Random House. ALA’s most specific request was to expand the options for library ebook lending business models to give libraries (and subsequently readers) more choice. This visit represents ALA’s ninth such delegation effort over the last several years. In light of the focus on choice, ALA responded with mixed reviews to new harmonized licensing terms for Penguin Random House—welcoming price reductions for perpetual access and the opportunity to obtain Penguin titles in perpetuity, but expressing disappointment in losing the short-term licensing option previously available from Penguin.

OITP Highlights Library 3D Printing Leadership for Policymakers in New Report

Toward A More Printed Union: Library 3D Printing Democratizes Creation urges public and private sector leaders to leverage this leadership to unlock the full potential of 3D printing technology for all Americans. As the paper argues, library 3D printing yields benefits across a gamut of disciplines – from education to entrepreneurship and economic development. The paper, authored by Charlie Wapner of ALA’s Office for Information Technology Policy (OITP), is the third 3D printing publication released by OITP.
ALA Seeks Balance in Joint Strategic Plan on Intellectual Property Enforcement

Responding to a request for input on the Joint Strategic Plan on Intellectual Property Enforcement, the American Library Association (ALA) submitted formal comments to the U.S. Intellectual Property Enforcement Coordinator through the Library Copyright Alliance (LCA) and additional informal comments. The comments argue that the 2016 Joint Strategic Plan should: 1) attempt to strike the right balance between protection and access; 2) base policies on data rather than beliefs; 3) focus on eliminating counterfeit goods that threaten health and safety; and 4) promote the availability of lawful content through implementing the Administration’s public access and open education policies. ALA, ACRL and ARL are LCA members.

Recent OITP Speaking Engagements

- Wi-Fi and Ed Tech: OITP Deputy Director Larra Clark was a panelist for “Wi-Fi and EdTech: Narrowing the Homework Gap” at the DC tech startup incubator, 1776.

- 3D printing: OITP Policy Analyst Charlie Wapner was a panelist in a program on 3D printing at the Dupont Summit, an annual science, technology and environmental policy convening in Washington D.C.

Other Selected OITP Activities

- OITP staff joined with leadership in the Chief Officers of State Library Agencies (COSLA) to discuss library strengths, capacity needs and potential partners to advance the National Policy Agenda for Libraries at the COSLA Fall Meeting in October. Small groups focused on education & learning, employment & entrepreneurship, health & wellness, heritage & history, and veterans & military families.

- ALA opposes blanket extended collective licensing. ALA filed comments through the Library Copyright Alliance (LCA) on the U.S. Copyright Office’s proposal for a five-year pilot to test the efficacy of an extended collective licensing (ECL) model for the non-profit, educational use of protected works in mass digitization collections. The LCA opposes such a blanket license system because it would weaken fair use, there are no funds to develop and manage a complicated rights registry, and any fees collected may never be distributed to lawful rights holders (if these rights holders cannot be located).