

# ACRL / NY

## Association of College and Research Libraries

***Connections:***  
***The Quarterly Newsletter of ACRL / NY***

**Volume 22, Number 3**  
**Winter 2004**

### ***Message from the President***

**Gloria B. Meisel**

Welcome back from a pre-Winter/Winter semester to the Winter/Spring semester. The variables in the weather have been wreaking havoc with our schedules, but hopefully the signs of a true Spring won't be far behind! Please take a moment to look at our website at [www.acrlny.org](http://www.acrlny.org). Our executive board is listed there and it includes chairs and vice-chairs of the regional sections. Please feel free to contact any of them if you think you might like to get involved with us this year or in the future. Our Discussion Groups are listed as well.

The ACRL/NY 23<sup>rd</sup> Annual Symposium was held at Baruch University on Friday November 21, 2003. The symposium, "Operation Intellectual Freedom: Librarians on the Front Line," focused on the Patriot Act. It was a smashing success according to the evaluations received. We had 48 evaluations submitted and 46 rated it Excellent to Very Good. The lunch was highly rated as well and almost everyone stayed for the afternoon session despite the enticingly beautiful weather! We had speakers both for the Patriot Act and against the Patriot Act. You can read more about the symposium, the speakers, and their topics on page 2 of this newsletter as well as on the Symposium website at <http://www.acrlny.org/symp2003>. The best part, according to both the committee and the respondents, was the fact that two points of view were represented on this very serious topic.

We are looking forward to the 24<sup>th</sup> Annual Symposium which will be chaired by Ann Grafstein. If you are interested in working on it, you can email her at [librfaig@hofstra.edu](mailto:librfaig@hofstra.edu). The committee is now in the process of selecting a topic of interest for all of you and determining possible speakers as well.

I am looking forward to a very productive year and urge you to join me in making it happen.

As membership secretary of ACRL/NY, I thank you for your past support of our organization and remind you to renew your membership for the 2004 calendar year. As you know, we depend on your membership to provide outstanding symposia and events of interest to all academic librarians. Please take a moment to access our website at <http://www.acrlny.org/membership.htm>, print out the membership form, and return it with your check to:  
Marsha Spiegelman;  
Nassau Community College Library;  
1 Education Drive;  
Garden City, NY 11530.

Thank you very much.  
Marsha Spiegelman

**MEETING OF EDUCATION/CURRICULUM  
MATERIALS CENTER DISCUSSION GROUP**

The meeting of the Education/Curriculum Materials Center Group took place on June 13, 2003 at Hofstra University's Curriculum Materials Center. One of the chief items on the agenda was a discussion of the **Guidelines for Curriculum Materials Centers** which had been approved by ACRL and ALA as of January, 2003. Yvonne Roux, a Group member, distributed copies of these guidelines. Yvonne had been a member of the Ad Hoc Curriculum Standards/Guidelines Committee which had been charged by the Education and Behavioral Sciences Section of ACRL (EBSS) to draft these guidelines. People attending the meeting

were impressed by the work of the Committee and expressed gratitude for their efforts.

In addition there was a discussion of NCATE standards for programs of education in New York State. Harriet Hagenbruch reported that she had been interviewed by an NCATE examiner in the beginning of April, her third experience in fifteen years. This time the process was quite formal. She had been informed well ahead of time by the Associate Dean of the School of Education and Allied Human Services when the interview would take place and what in particular they might be looking for including such things as the Library's five year plan and the multicultural nature of the CMC collection. The Associate Dean also provided Harriet with a copy of **Professional Standards for the Accreditation of Schools, Colleges, and Departments of Education**. When the actual interview took place, the examiner seemed especially interested in the CMC's young adult and children's literature collection as well as budgetary considerations (always a touchy subject). The interview went well and, in fact, the School of Education and Allied Human Services did get the NCATE accreditation.

Harriet spoke to Richard Gervais of the New York State Education Department's Office of Higher Education. Mr. Gervais informed her that by 2006 (originally an earlier date), all programs of teacher education would have to be accredited through an acceptable professional accrediting association. Currently, there are three choices available which include The National Council for the Accreditation of Teacher Education (NCATE), Regents Accreditation of Teacher Education (RATE), and one that was just recently approved by US Dept. of Education, Teacher Education Accreditation Council (TEAC). Accreditation visits must be completed by December 31, 2006. In terms of NCATE, Mr. Gervais noted that the standards for libraries appeared under Standard Six in the section entitled "Unit Resources Including Technology" and that it was important that libraries provide the resources necessary to support the mission of the School of Education in their respective institution. People at the meeting commented that, under this section, libraries were given short shrift and were lumped together with curricular and electronic information resources. Ideally, it was felt

**Volume 22, Number 3**

**Winter 2004**

*Connections* is published quarterly by the Greater New York Metropolitan Area Chapter / Association of College and Research Libraries, Inc. for its members.

**ACRL/NY**  
**P.O. Box 8331**  
**New York NY 10116-4652**

Edited by:

Dona McDermott  
B. Davis Schwartz Memorial Library  
Long Island University  
C.W. Post Campus  
Brookville, NY 11548  
Comments and submissions may be sent to  
dona.mcdermott@liu.edu

**Annual Membership Dues:**

ACRL National Members: \$10.00  
Members of Other State and Local Academic  
Institutions: \$15.00  
Non-members: \$20.00  
Students: \$5.00  
Institutional Members: \$25.00

Previous issues of *ACRL/NY Connections* may be found on the chapter's website:

## Operation Intellectual Freedom: Librarians on the Front Line

Symposium 2003

ACRL/NY's 23rd Annual Symposium, "Operation Intellectual Freedom: Librarians on the Front Line," was held on November 21, 2003 at Baruch College Conference Center. Summaries of the speaker's presentations follow.

**Judith Krug**, Director of the American Library Association's Office for Intellectual Freedom, opened the 2003 ACRL/NY symposium with a rousing and informative presentation on the implications of the USA Patriot Act. Not only did she provide an accessible summary of often confusing legal documentation, but also instructions for librarians to prepare themselves for any eventualities arising from the implementation of this act.

The USA Patriot Act, or the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act", was passed by both the House and Senate, and then signed into law by the President, in a matter of three days with little debate. Although there are ten titles and several sections of the Act, Ms. Krug's talk focused on sections 215 and 216, the two most likely to impinge upon library operations.

Section 215 of the USA Patriot Act affects the provisions of the Foreign Intelligence Surveillance Act of 1978. The wording of the U.S. Code was altered to allow the FBI to obtain a warrant to investigate business records. As opposed to the issuance of a subpoena in the previous wording, these warrants are executable immediately. For this reason, Ms. Krug urges all libraries to have a policy in place that will prepare staff for this unlikely, but possible event.

The policy should not only include a records-control schedule for expunging "personally identifiable information", but also procedures for responding to the issuance of a warrant. This warrant must meet two criteria to be valid. It must contain "good

cause" (legitimate request, not a fishing expedition) and it must be in the proper form (an official court order). A third criterion is emerging as a result of the Monica Lewinski case that requires law enforcement officials to explore other reasonable means of acquiring the information if they are available.

Front-line personnel must be well versed in these policies and trained to properly communicate with a law-enforcement official, if one should arrive at the library. They should ask for a name, badge number and office location. This information should be relayed to the Head Librarian or another individual designated to handle these instances. The identity of the officer should be verified and the library's legal council should be consulted. If the library has no legal council, they may call the Office for Intellectual Freedom (OIF) and ask to speak to a lawyer.

Ms. Krug cautioned that if the Library does call the OIF, they should never indicate why they need to speak to a lawyer. A provision of this warrant imposes a "gag" restraint on the business being asked for information. Because of this, only the essential personnel required for securing the necessary data should be informed. They also would be held accountable to the gag order.

Section 216 of the USA Patriot Act affects the Electronic Communications Privacy Act of 1986, pen register, and track and trace laws. Beyond requiring records of Internet activity, law enforcement officials may now obtain a warrant to tap or add monitoring devices to any component of a packet-switched data network. These would include all servers, personal computers and networking devices in a library. This warrant would also contain a gag order. Some libraries apparently keep their users informed by posting signs indicating that "their Internet infrastructure has not been compromised by law enforcement officials today". Ms.

*(Continued on page 4)*

*(Continued from page 3)*

Krug doesn't wholeheartedly agree with this strategy since it may be construed as a violation of the gag order.

She concluded her presentation on a positive note, by reminding the audience that not only do our fourth amendment rights still exist, but also that most states have enacted statutes specifically against search and seizure. She mentioned that New York State has a particularly well-developed law concerning the privacy rights of our library users. She urged all librarians to become familiar with their state statutes since they provide the legal foundation for both our user's confidentiality and the library's responsibility for ensuring that confidentiality.

Sherry Webber  
Purchase College, SUNY

.....

**Lee Strickland**, a visiting professor of Information Studies and the Scholars Program at the University of Maryland, is an attorney by training and a senior intelligence officer with the CIA. Strickland, whose interests are law of information, intellectual property, First and Fourth Amendments, and government intrusion, spoke about the government's need to balance national security with individual privacy. He put the USA Patriot Act in the historical context of events that gave rise to laws regarding foreign intelligence, surveillance, and search and seizure. Strickland suggested that Krug's criticisms of the Patriot Act have to be tempered by the realities of terrorism. The Fourth Amendment rights on unreasonable search and seizure are never absolute and require the test of reasonableness. In times of "national threat," Strickland explained, we generally see an increase in government power and decrease in civil liberties. The question is whether this creates a new baseline of government power after the threat is removed, or whether there are appropriate measures to conduct a review of government power.

Strickland cited the Alien and Sedition Acts of 1798 as a starting point for qualifying the Fourth Amendment as it applied to national security. Other events or cases he highlighted included the Civil War period in which habeas corpus—the right to object to detention or imprisonment—was suspended three

times; World War I when the Sedition Act of 1918 was enforced in convicting more than 2000 people for speech-violations; the Palmer Raids of 1918-21 involving massive arrests of union members and "leftists" in opposition to government; the Rockefeller and Church Committee Reports of 1973 and 1974, which marked a watershed moment for CIA intelligence activities; the Handschu Guidelines of 1972 which severely limited police investigations of political activity; and FISA (Foreign Intelligence Surveillance Act) of 1978 which was the first effort to regulate foreign intelligence activities. Strickland explained that, while FISA requires a two-pronged standard of a) probable cause and b) agent of foreign power, Section 215 of the Patriot Act provides for a lesser standard for the same activities.

Technology has also complicated the issue of privacy. For example, while ECPA (Electronic Communications Privacy Act) of 1986 initially provided for government acquisition/interception of telephone communication, it now applies to cell phones and computers. Because of information available on computers, the government has the ability to initiate data-mining on individuals. Strickland noted that, since the law tends to lag behind advances in technology, there is currently no clear standard for initiating data-mining. Furthermore, while ECPA and other laws focused on restricting *government* invasion of privacy, individuals are now also concerned about *commercial* invasion of individual privacy, e.g., identity theft.

The need for public security should be balanced with the need for individual privacy, and it is a complicated balancing act. Strickland pointed to an example from the UK as a model the US might adopt: the UK has established an independent tribunal to hear citizen complaints of overreaching by government agencies. He also cited several cases to watch regarding government invasion of privacy that are before the Supreme Court currently: USA v. Padilla ("dirty bomb" suspect); Hamdi v. Rumsfeld (president's war-making power vs. civil liberties); the case on foreign national detainees in Guantanamo Bay; and Hiibel v. Nevada (right to anonymity).

Janet Clarke  
SUNY - Stony Brook

*(Continued on page 5)*

*(Continued from page 4)*

**Daniel J. Lyons**, Associate Division Counsel for the New York Office of the FBI, stated that the goal of his talk was to try to clear up some of the misconceptions people have about the Patriot Act. His view is that the Patriot Act doesn't go nearly as far/isn't "as bad" as many think it is, and he reiterated that it is important to read it in conjunction with the statutes it amends. Citizen protections and safeguards are in place, but the U.S. Government hasn't done a good job of clarifying the Act for the American public.

He reviewed elements of FISA and the investigation process, explained the need for secrecy, and emphasized the layers of approval needed by the FBI for their investigations. He then focused on Section 215 of the Patriot Act, which relaxed legal requirements to search business records, including those of libraries. Mr. Lyons said that although there have been rumors in the press to the contrary, Section 215 has never been used, and he stressed that if it were ever to be used, it would be used in a conservative manner.

Kris Wycisk  
Mercy College

.....  
**Siva Vaidhyanathan**, cultural historian and media scholar in the Department of Culture and Communication of New York University, spoke about copyright, specifically the Digital Millennium Copyright Act (DMCA). His discussion of copyright was framed within the context of intellectual freedom, observing that it is only recently that copyright has been recognized as a threat to intellectual freedom and a form of censorship. Noting that, like the USA Patriot Act, the DMCA was passed with almost no public debate or discussion, Dr. Vaidhyanathan argued for the importance of beginning a public discussion of this act and encouraging Congress to revisit it.

Dr. Vaidhyanathan argued that the DMCA inhibits access to information and silences research and scholarship, since the Act leaves decisions about whether to grant or deny access to a work exclusively with the publisher or producer of that work. Moreover, a particularly dangerous feature of the DMCA, he noted, is that it removes copyright enforcement from the courts and places it in private hands. This means that the DMCA applies with no standard due process

or appeals mechanism. The purpose of the DMCA, according to Dr. Vaidhyanathan, was primarily to prevent digital piracy. Instead, he argued that while the law has been notably ineffective at accomplishing its primary purpose, it has been highly effective at stifling legitimate research and scholarship.

Ann Grafstein  
Hofstra University

.....  
**ROUNDTABLE WRAP-UP**. This year's ACRL/NY Symposium, **Operation Intellectual Freedom:**

**Librarians on the Front Line** provided the opportunity for a lively and informed discussion of current legislative initiatives which are impeding intellectual freedom. The format of the symposium itself was altered to better reflect the programming preferences of the membership at large. To that end, guest speakers addressed the audience during the morning session while the afternoon featured a lively roundtable discussion moderated by Rick Karr of National Public Radio (NPR).

Mr. Karr's credentials include reporting for NPR New York on culture, media, and technology related issues. As moderator, Mr. Karr presented the speakers with the questions raised during the morning session. His skills as an arbiter, coupled with his quick wit, and engaging manner proved him to be a first-rate choice to moderate.

During the roundtable, scores of questions were addressed, each thoughtful, many complex. The speakers handled the vast majority of the questions quite practically, offering sensible advice for difficult situations. Throughout the afternoon we were advised of the importance of establishing policies and procedures, and the need to be prepared for an inquiry vis-à-vis the Patriot Act.

It was the consensus of all who attended that the Patriot Act is representative of a climate which has the capacity to create a chilling effect on intellectual freedom.

**Operation Intellectual Freedom: Librarians on the Front Line** was a great success in that it provided a forum for a discussion about the need to establish boundaries and strike a balance between security and freedom.

Mary Kate Boyd Byrnes  
C.W. Post Campus/LIU

**The Greater New York Metropolitan Area  
Chapter/Association of College and  
Research Libraries, Inc.  
P.O. Box 8331  
New York NY 10116-4652**

---

*(Continued from page 2)*

that librarians needed to be more involved in the operation of associations of accreditation if the importance of curriculum materials centers in particular, and libraries in general, was to be fully recognized. Also, the need for outreach to School of Education faculty was also addressed.

Harriet passed out a copy of the table of contents of the latest book edited by Patricia Libutti. The name of the book is ***Digital Resources and Librarians: Case Studies in Innovation, Invention and Implementation*** that includes a great many items of interest to education librarians.

Sheila Kirven then spoke about WorldED, a database that is hosted by the ***Scholarly Communication Center*** at Rutgers University. Sheila and Patricia were among the librarians from all over the country who developed this useful tool. The site is global in nature and provides links to other education sites within the country as well as other parts of the world.

Finally, proposed changes to the ERIC database such as the merging of the sixteen clearing houses into one central body and the elimination of a number of personalized services were brought up. Sheila added that only scientifically based documents would be recognized by the new central authority. However, as someone in the Group indicated, education is more of an art than a science and that it made no sense to limit articles in this manner. Harriet said she had sent a letter protesting some of these changes to Rod Paige, Secretary of Education, and that many individuals as well as library and education associations had contributed their own letters as well.

All in all, this was a very productive session. Group members are looking forward to a follow-up meeting either in the fall or in the beginning of 2004.

Harriet Hagenbruch  
Chair, Education CMC Discussion Group