ALA Intellectual Freedom Committee
Report to Council
2021 ALA Midwinter Virtual
Tuesday, January 26, 2021

The ALA Intellectual Freedom Committee (IFC) is pleased to present this update of its activities.

<u>"Resolution Condemning U.S. Media Corporations' Abridgement of Free Speech" Working Group</u>

At ALA Virtual 2020 - Community Through Connection, ALA Council referred "Resolution Condemning U.S. Media Corporations' Abridgement of Free Speech" (ALA CD#46) to IFC and IRC "to form a working group that shall include members from both committees as well as the original mover and seconder of the resolution with a report due back at Midwinter 2021." A working group was created and has met several times to review the resolution and suggest revisions.

The working group's discussions about the resolution's scope and implications continue. Recent events such as the insurrection at the Capitol on January 6, 2021, the subsequent decision by Amazon and other platforms to deny services to the Parler chat platform, and social media platforms suspending specific individuals and groups have brought comments and discussions about broadening a statement on corporate speech and free expression in both domestic and international context.

The working group would like to continue discussing the scope and potential revisions of the resolution. The working group requests a continuance of its charge to provide an updated report at ALA Annual Conference 2021.

<u>"Resolution in Opposition to Facial Recognition Software in Libraries"</u>

The use of facial recognition technology is inherently inconsistent with the *Library Bill of Rights* and other ALA policies that advocate for user privacy, oppose user surveillance, and promote anti-racism, equity, diversity, and inclusion. In early 2020, the IFC Facial Recognition Working Group distributed a survey to determine the library community's level of knowledge and concern about facial recognition software. This survey was distributed on social media, as well as through ALA Connect and several mailing lists; it was open from February 14 through March 14

and received 628 responses. The working group reviewed and coded these responses, and used them to inform the language used in "Resolution in Opposition to Facial Recognition Software in Libraries." A summary of the comments from Facial Recognition Survey (404 comments out of 628 total responses) is included in this report as an information item.

The resolution was posted on ALA Connect to invite member feedback, and was taken to ALA Council Forum. The working group discussed the comments received. "Resolution in Opposition to Facial Recognition Software in Libraries" is included in this report as an action item. The Committee on Library Advocacy voted to endorse the resolution, and the resolution is endorsed in principle by the Intellectual Freedom Round Table.

Surveillance Working Group & "Resolution on the Misuse of Behavioral Data Surveillance in Libraries"

A recent keynote given at the virtual security summit of The Scholarly Networks Security Initiative (SNSI) caused concern among library workers and other privacy and intellectual freedom advocates. Prompted by the article "Proposal to install spyware in university libraries to protect copyrights shocks academics," the IFC Privacy Subcommittee created a working group that included Privacy Subcommittee members, those working in academia (including representation from the ACRL Professional Values Committee), and members from the Library Freedom Institute and Digital Library Federation. The three groups sponsored a town hall titled "Surveillance in Academic Libraries?! A Search for Better Ideas" on December 1. Moderated by IFC Privacy Subcommittee member Michelle Gibeault and featuring guest speaker and security engineer Roy Hatcher, the town hall reviewed how libraries can work with information security to protect patron privacy. Attendees also asked questions.

This working group also crafted a resolution to address the concerns raised during the SNSI presentation. The group acknowledged the issue of behavioral data surveillance was larger than academic libraries and wrote a resolution to address the core issues that impact libraries of all types.

The resolution was taken to ALA Council Forum, and a working group discussed the comments received. "Resolution on the Misuse of Behavioral Data Surveillance in Libraries" is included in this report as an action item. It is endorsed in principle by the Intellectual Freedom Round Table.

ACTION ITEMS

The Intellectual Freedom Committee moves the adoption of the following action items:

CD # 19.2 Resolution in Opposition to Facial Recognition Software in Libraries
CD # 19.3 Resolution on the Misuse of Behavioral Data Surveillance in Libraries

In closing, the Intellectual Freedom Committee thanks the division and chapter intellectual freedom committees, the Intellectual Freedom Round Table, the unit liaisons, and the OIF staff for their commitment, assistance, and hard work.

Respectfully Submitted,
ALA Intellectual Freedom Committee

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Summary of Comments from Facial Recognition Survey

In early 2020, the IFC Facial Recognition Working Group distributed a survey to determine the library community's level of knowledge and concern about facial recognition software. This survey was distributed on social media, as well as through ALA Connect and several mailing lists; it was open from February 14 through March 14.

This summary is focused entirely on the response to the final question: **"What other comments would you like to share about libraries and facial recognition software?"**

Of the 628 respondents to the survey, only 404 left additional comments. Members of the working group worked through all responses, counting comments with similar content. (Note, since commenters often made multiple points, a single comment may have been counted several times, once under each of the themes it contained.)

The responses can be found in the table below, with "no comment" removed. If you have questions or concerns, please contact Jim DelRosso.

summary of comment	# of similar responses (cumulative)	Percentage of total	Percentage of actual responses
General negative opinion	285	45.38%	70.54%
Threat to privacy (patron, user, worker)	61	9.71%	15.10%
No need for it in libraries	22	3.50%	5.45%
Racial bias	16	2.55%	3.96%
How would this be useful? How would this committee work?	15	2.39%	3.71%
ALA should take an official stance against FRT	13	2.07%	3.22%
Timely Topic / Thank you	13	2.07%	3.22%
Weighing pros and cons	12	1.91%	2.97%
General positive opinion	12	1.91%	2.97%
How can we prevent abuse?	11	1.75%	2.72%
Technology ineffective	10	1.59%	2.48%

Information unprotected/security concerns	10	1.59%	2.48%
Less welcoming environment	8	1.27%	1.98%
Gender bias	7	1.11%	1.73%
Negative outcomes	6	0.96%	1.49%
Uses the word ban	5	0.80%	1.24%
Curious about alternatives to FRT	5	0.80%	1.24%
Patron safety	4	0.64%	0.99%
General neutral comment	4	0.64%	0.99%
Connection to other systems unclear	3	0.48%	0.74%
What information is being provided?	3	0.48%	0.74%
ALA should lobby for legislation banning FRT	2	0.32%	0.50%
Canadian Concerns	2	0.32%	0.50%
Are Facial Recognition Solutions being marketed to libraries?	2	0.32%	0.50%
Already in use	2	0.32%	0.50%
Facial recognition used in other areas, like FB	2	0.32%	0.50%
Cost	2	0.32%	0.50%
Will not be in use at my library	2	0.32%	0.50%
Libraries should teach people how to fool it	2	0.32%	0.50%
Unrelated comment to ALA in general	1	0.16%	0.25%
What if facial features change	1	0.16%	0.25%
Would family members be able to pickup materials	1	0.16%	0.25%
Can FRT be used without revealing identities?	1	0.16%	0.25%
Nothing invasive about FRT but needs to think more	1	0.16%	0.25%
Know of libraries being pressured into this	1	0.16%	0.25%
Survey is bad	1	0.16%	0.25%
Government overreach	1	0.16%	0.25%
Off topic	1	0.16%	0.25%
Not in use	1	0.16%	0.25%
Help prevent fraud on the part of patrons	1	0.16%	0.25%
Comment on survey	1	0.16%	0.25%

Don't panic	1	0.16%	0.25%
It's inevitable	1	0.16%	0.25%

Resolution in Opposition to Facial Recognition Software in Libraries

Whereas facial recognition is defined as computer programs that analyze images of human faces for the purpose of identifying them[1];

Whereas the American Library Association (ALA) Policy B.2.1.17 (Privacy) states that "Protecting user privacy and confidentiality is necessary for intellectual freedom and fundamental to the ethics and practice of librarianship";

Whereas the *Library Bill of Rights* states, "All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information";

Whereas ALA's *Library Bill of Rights* and its interpretations maintain that all library users have the right to be free from unreasonable intrusion into, or surveillance of, their lawful library use;

Whereas there have been efforts in Congress — including those by Senator Edward J. Markey (D-MA), along with Senator Jeff Merkley (D-OR), Congresswoman Pramila Jayapal (D-WA) and Congresswoman Ayanna Pressley (D-MA) — to regulate and restrict facial recognition and biometric technology[2];

Whereas ALA advocates for users to have the right to access library materials and spaces without having their privacy invaded;

Whereas facial recognition data is often collected without the informed consent of the individual, creating opportunities for the unauthorized surveillance and monitoring of library users[3];

Whereas the use of facial recognition technology has expanded without sufficient oversight standards being put in place, especially for law enforcement[4];

Whereas the mechanisms of facial recognition software are rarely revealed because of proprietary status and intellectual property law;

Whereas current studies[5] on facial recognition software show extreme gender and racial bias, a shocking prevalence of racist misidentification[6], and the use of prejudicial algorithms and harmful stereotypes that can lead to consequences for those misidentified[7];

Whereas the use of facial recognition technology is inherently inconsistent with the *Library Bill of Rights* and other ALA policies that advocate for user privacy, oppose user surveillance, and promote anti-racism, equity, diversity, and inclusion;

Whereas current federal law would not prevent library use data from being shared with third parties[8], thus opening it up to mining, monetization, and malicious misuse;

Whereas 70% of the 404 respondents who offered comment in an ALA Intellectual Freedom Committee survey distributed on February 24, 2020 on facial recognition software expressed a negative opinion of the use of such software in libraries[9];

Whereas the implementation of facial recognition software also impairs the privacy of the library workers through compelled consent to the submission and use of their biometric data;

Whereas ALA Policy B.1.2 (Code of Professional Ethics for Librarians) states in Article V that as a profession we ". . . advocate conditions of employment that safeguard the rights and welfare of all employees of our institutions"; and

Whereas use of facial recognition systems is invasive and outweighs any benefit for library use; now, therefore, be it

Resolved, that the American Library Association (ALA):
1. opposes the use of facial recognition software in libraries of all types on the grounds that its implementation breaches users' and library workers' privacy and user confidentiality, thereby having a chilling effect on the use of library resources;
2. recommends that libraries, partners, and affiliate organizations engage in activities to educate staff, users, trustees, administrators, community organizations, and legislators about facial recognition technologies, their potential for bias and error, and the accompanying threat to individual privacy;
3. strongly urges libraries, partners, and affiliate organizations that use facial recognition software to immediately cease doing so based on its demonstrated potential for bias and harm and the lack of research demonstrating any safe and effective use;
4. encourages legislators to adopt legislation that will place a moratorium on facial recognition software in libraries; and
5. directs the ALA Executive Director to transmit this resolution to Congress.

1. "Facial Recognition Technology," ACLU.

2. "Senators Markey and Merkley, and Reps. Jayapal, Pressley to introduce legislation to ban government use of facial recognition, other biometric technology," markey.senate.gov, June 25, 2020.

3. Kashmir Hill, "The Secretive Company That Might End Privacy as We Know It," *New York Times*, February 10, 2020.

4. Clare Garvie, Alvaro Bedoya, and Jonathan Frankle, "The Perpetual Line-Up: Unregulated Police Face Recognition in America," Georgetown Law, 2016; ACLU, "ACLU of Louisiana Obtains E-mails that Confirm NOPD's Use of Racially Biased Facial Recognition Technology," December 14, 2020; ACLU, "ACLU of Washington Calls on Mayor Jenny Durkan to Ban Face Recognition Technology after the Seattle Police Department's Apparent Violation of the City's Surveillance Ordinance," December 2, 2020; Kevin Rector, "Police Commission to review LAPD's facial recognition use after Times report," Los Angeles Times, September 22, 2020.

5. "NIST Study Evaluates Effects of Race, Age, Sex on Face Recognition Software," National Institute of Standards and Technology, May 18, 2020; Larry Hardesty, "Study finds gender and skin-type bias in commercial artificial-intelligence systems," MIT News, February 11, 2018; Erik Learned-Miller, Vicente Ordóñez, Jamie Morgenstern, and Joy Buolamwini, "Facial Recognition Technologies in the Wild: A Call for a Federal Office," Algorithmic Justice League, May 29, 2020; Nicolás Rivero, "The Influential Project That Sparked the End of IBM's Facial Recognition Program," Quartz, June 10, 2020.

6. Alex Najibi, "Racial Discrimination in Face Recognition Technology," Harvard University, October 24, 2020; Steve Lohr, "Facial Recognition Is Accurate, if You're a White Guy," New York Times, February 9, 2018; James Vincent, "Google 'fixed' its racist algorithm by removing gorillas from its image-labeling tech," The Verge, January 12, 2018.

7. Bobby Allyn, "'The Computer Got It Wrong': How Facial Recognition Led to False Arrest of Black Man," NPR, June 24, 2020; Paul Lewis, "'I Was Shocked It Was So Easy': Meet the Professor Who Says Facial Recognition Can Tell If You're Gay," The Guardian, July 7, 2018.

8. Alicia Puente Cackley, "Facial Recognition Technology: Privacy and Accuracy Issues Related to Commercial Uses," GAO Reports, August 11, 2020.

9. "Summary of Comments from Facial Recognition Survey," Intellectual Freedom Committee's Facial Recognition Working Group, November 16, 2020.

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Marshall Breeding, "Smarter Libraries through Technology: Privacy and Security in Times of Crisis," Smart Libraries Newsletter 40, no. 7 (July 2020): 1-3.

EPIC, *Coalition Letter to House and Senate Committees Requesting Oversight Hearing on FBI's Biometric Database*, June 23, 2016.

Chris Gilliard, Emily Dreyfuss, and Ben Ewen-Campen, "The Fight To Ban Facial Recognition Technology," WGBH Educational Foundation, July 31, 2020.

Martin Garnar and Trina Magi, eds., *Intellectual Freedom Manual*, 10th ed. (Chicago: ALA Editions, 2021).

Jonathan Hernandez-Perez, "Facial Recognition, Libraries, and Intellectual Freedom," IFLA, August 19, 2019.

Troy Lambert, "Facing Privacy Issues: Your Face as Big Data," Public Libraries Online, May 19, 2016.

Steve Neavling, "Detroit police arrest wrong Black man based on facial recognition technology error, ACLU says," Detroit Metro Times, June 24, 2020.

David P. Randall and Bryce Clayton Newell, "The Panoptic Librarian: The Role of Video Surveillance in the Modern Public Library," In iConference 2014 Proceedings (2014): 508 - 521.

Resolution on the Misuse of Behavioral Data Surveillance in Libraries

Whereas the *Library Bill of Rights* states, "All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.";

Whereas the American Library Association's (ALA) "Privacy: An Interpretation of the *Library Bill of Rights*" states, "All users have a right to be free from any unreasonable intrusion into or surveillance of their lawful library use.";

Whereas the ALA's "Privacy: An Interpretation of the *Library Bill of Rights*" states, "Libraries should not monitor, track, or profile an individual's library use beyond operational needs. Data collected for analytical use should be limited to anonymous or aggregated data and not tied to individuals' personal data.";

Whereas ALA Policy Manual B1.2 (Code of Professional Ethics for Librarians) states, "We do not advance private interests at the expense of library users, colleagues, or our employing institutions.";

Whereas ALA has long affirmed that the protection of library users' privacy and confidentiality rights is necessary for intellectual freedom and is fundamental to the ethical practice of librarianship;

Whereas behavioral data surveillance is defined as the collection of data about an individual's engagement with the library that, alone or with other data, can identify the user, for purposes of monitoring, tracking, or profiling an individual's library use beyond operational needs;

Whereas some vendor products require behavioral data surveillance as a condition of use;

Whereas libraries face financial pressure to monetize user data to secure discounts from vendors;

Whereas inequities exist within libraries that may limit those with less scale, money, or power to resist the monetization of user data;

Whereas behavioral data surveillance disproportionately impacts minority and marginalized populations who may be identified or misidentified when utilizing these technologies;

Whereas it is now technologically feasible to use behavioral data surveillance as a mechanism to deny access to library resources; now, therefore, be it

Resolved, that the American Library Association, on behalf of its members
1. stands firmly against behavioral data surveillance of library use and users;
2. urges libraries and vendors to never exchange user data for financial discounts, payments, or incentives;
3. calls on libraries and vendors to apply the strictest privacy settings by default, without any manual input from the end-user;
4. urges libraries, vendors, and institutions to not implement behavioral data surveillance or use that data to deny services;
5. calls on libraries to employ contract language that does not allow for vendors to implement behavioral data surveillance or use that data to deny access to services;
6. calls on libraries to oversee vendor compliance with contractual obligations;
7. calls on library workers to advocate for and educate themselves about library users' privacy and confidentiality rights; and
8. strongly urges libraries to act as information fiduciaries[1], assuring that in every circumstance the library user's information is protected from misuse and unauthorized disclosure, and ensuring that the library itself does not misuse or exploit the library user's information.

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1. Martin Garnar and Trina Magi, eds., *Intellectual Freedom Manual*, 10th ed. (Chicago: ALA Editions, 2021), 217.