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COMMONWEALTH OF PENNSYLVANIA
JUDICIARY COMMITTEE HEARING

IN RE: HOUSE BILL 10, TASK FORCE ON INTERNET AND TECHNOLOGY LAW HEARING

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MAIN CAPITOL BUILDING
HARRISBURG, PENNSYLVANIA

THURSDAY, JUNE 7, 2001, 10:04 A.M.

BEFORE:
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HON. ALLAN EGOLF
HON. HAROLD JAMES
HON. BABETTE JOSEPHS

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CHAIRMAN MAITLAND: Good morning, ladies and gentlemen. I would like to call this meeting of the House Judiciary Committee Task Force on Internet and Technology Law to order.

I am State Representative Steve Maitland of the 91st District located in Adams County, beautiful Gettysburg, Pennsylvania. I'm Chairman of the Task Force. On my left is John Cherry. He is a staff Member of the House Judiciary Committee. And to my right, Representative Allan Egolf who is the prime sponsor of the bill of the day, House Bill 10.

I would like to begin with a statement from Representative Egolf about House Bill 10 and the issue at hand today. Representative Egolf.

REPRESENTATIVE EGOLF: Thank you, Mr. Chairman. I want to thank, first of all, all of you that are here, both in the audience but particularly the individuals who are going to testify today. I really appreciate it. Thank you for taking the time and effort to come here, some of you from long distances, and to discuss here today with us this important issue of protecting our children who use the Internets in schools and libraries, who unfortunately from those on those Internets are able

to access obscene material and harm for the minors.

I want to give you a little bit of background leading up to this. It was certainly becoming obvious to many of us, but the Family Research Council investigative report, it was released March 15th of 2000 in Washington, D.C., revealed what many of us were seeing happening.

They said, "There's a sea of evidence that Internet pornography and related sex crimes are a serious problem in America's libraries, and we've only uncovered the tip of the iceberg due to the efforts unfortunately, due to the efforts of the America Library Association to chill the facts.

Also a study for digital media forum found that 92 percent of adults surveyed said that pornography should be blocked on school computers; 74 percent think the government should ban on-line pornography out right."

We, therefore, introduced a Child Internet Protection Act last session as House Bill 2324. The Judiciary Committee held one hearing in southeastern Pennsylvania; Media, Pennsylvania. After it was reported out of committee, we had much discussion and debate on the floor of the House. It passed the House 177 to 15.

Unfortunately, it was very late in the session. And because of the lateness and also the very effective lobbying effort by the America Library Association, through their local librarians who contacted their Representatives and Senators, and did a very good job at doing that.

And, unfortunately, though, we are disseminating, I think, a lot of misinformation. Because of both those factors, the bill was not brought up for a vote before the end of session in the Senate. So we reintroduced the bill as House Bill 10, and in the Senate with -- as the prime sponsor, Senator Piccola, Senate Bill 583 which is virtually identical to House Bill 10.

We decided, since there was a lot of misinformation that's been disseminated and concern raised in the minds of Representatives and Senators, we thought it would be very prudent to hold another hearing to attempt to allay some of those concerns.

And I would like to give you just a little bit of background of where we are going today.

First of all, and this has been verified by the ALA officials, America Library Association's official position on this subject is

that, "The rights of users who are minors shall in no way be abridged. Libraries must support access to information on all subjects regardless of the user's age or the content of the material."

Some of those claims that we hope to hear testimony on today, some of those claims that they've been making, first of all, that there have been few complaints and that the accessing of pornography on the Internet is simply not a problem.

Another one is that filters are too restrictive, that they won't allow legitimate research. For example, the examples generally given are that you try to research breast cancer, information on breast cancer, you wouldn't be able to do so. Also, if you are looking -- say you're doing a history report on Middlesex, England. You would not be able to access it because the filter is blocking it. And that hopefully again today we will find that that is not the case. It may have been in the past, but not now.

Also, some other misinformation, that filters don't filter enough, they're too easy to circumvent. Also, that filters are too expensive and they're too costly to maintain and update. Another one is that all libraries have

acceptable-use policies in place, when really some of those acceptable-use policies just state that there will be no restricting of access.

And others such as providing computer screens or separate rooms for adults to use the computers are adequate solutions. And I guess the point that allowing complete unrestricted access is more important that protecting our children.

So that's what we hope to discuss today and learn from experts in many different areas. As you can see from the schedule, we have quite a diverse group of testifiers. And I am confident that we will hear some excellent and very beneficial testimony today.

So thank you for being here. Thank you, Mr. Chairman.

CHAIRMAN MAITLAND: Thank you, Representative Egolf.

I would like to ask Rich Bowra and Cynthia Richey of the Pennsylvania Library Association to come to the mike.

REPRESENTATIVE JOSEPHS: Mr. Chairman, I'd like to say something before we begin.

CHAIRMAN MAITLAND: Representative Josephs.

REPRESENTATIVE JOSEPHS: I am grateful that the maker of this bill is here, because I have a number of questions I would like to ask him. But when I looked over this agenda, I was really surprised and disappointed that we do not have somebody testifying who is a neutral expert on computer filters, somebody from a group like computer scientists or social responsibility or one of those nonprofit groups which has no particular interest in this subject matter and could answer in a neutral way some of the questions that have come up that were just summarized, I think, quite succinctly and comprehensively by the maker of this bill.

And I would volunteer to the Chair of this Committee and, of course, we would have to check with the Chair of the whole Committee, to find some such person who would be acceptable to all of us and either in some way to get the testimony of that person, either in writing or another little short hearing or some sort of a thing along those lines.

So if Chairman Maitland would allow me to work with him on that, I would be very appreciative. And I think we would get a better

quality of information so that we could make a decision that would be a better decision on this legislation.

CHAIRMAN MAITLAND: Thank you, Representative Josephs. I think Professor Frieden who is scheduled to testify at 12:20 can speak to this issue somewhat. But if you would like to have further testimony beyond that, we will attempt to get that after the hearing today.

REPRESENTATIVE JOSEPHS: Thank you.

CHAIRMAN MAITLAND: Okay. Let's have Mr. Bowra and Mrs. Richey, please begin at your leisure.

MR. BOWRA: Good morning.

CHAIRMAN MAITLAND: Good morning.

MR. BOWRA: I appreciate the opportunity today.

My name is Rich Bowra. I'm Executive Director of the Dauphin County Library System in Harrisburg, Pennsylvania. We represent eight libraries that have a mix of rural, urban and suburban settings.

And I am here with the Pennsylvania Library Association. However, our President, Jack Sulzer, from Penn State was not able to be here

today, and there is some testimony from Mr. Sulzer that has been supplied to this Committee in advance of this meeting.

Cynthia Richey is Director of the Mt. Lebanon Public Library. As I said, I'm Director of the Dauphin County Library System. And we are here to give a little bit of a perspective, some experiential background from the public library perspective.

Clearly, as has been said by a lot of people, the Internet is an extremely powerful tool. All kinds of things can be accessed at this point. And library users use the Internet for many reasons, whether they're researching a medical condition, doing a book report, looking for consumer information, getting guidance in selection of a new vehicle or whatever. It has been an extremely powerful and effective tool.

We have for many years been working with a State program called the Power Library in public and school libraries across the Commonwealth. The Power Library is a State program through Governor Ridge that allows access by these libraries to more than two thousand journals with full text articles, health information, encyclopedias,

dictionaries, things of that sort, and has been instrumental in providing timely information to our patrons.

In addition to that, our library system subscribes to a number of other informational databases on the Internet, and we're very discriminating on our home page to have some preselected links that we feel are very useful and appropriate for our library patrons.

Most recently at our East Shore library, which is our main library in Dauphin County, we were host to PennDOT that did a press conference on their Internet access to motor vehicle registration and licensing, showing another important power of the Internet.

However, all of that being said, librarians are very much aware and very cognizant of the fact that while the information on the Internet is a very powerful tool, there are a lot of challenges that librarians have to meet.

I have been in this profession about 27 years, and I would not hesitant to say that this is probably one of the most difficult issues that I as a public library administrator have ever had to deal with.

And I think it's great that in a situation like this today we are getting a number of the parties and players together to really talk about this issue, and talk about this issue in some greater detail. Because rather than it being any kind of a confrontational issue, I think that it's important for this Committee to understand that librarians have been wrestling with this for a long time. They take this issue very seriously. Protecting children from inappropriate sites is extremely important to us. And I think the dialogue is very valuable to see what might be a solution that would work well for all.

Most recently, again probably about a week or so ago, the Governor and Mrs. Ridge held a press conference where they released some information for families and children on Internet safety. I think that's a very important step as well, and I certainly commend them for doing that.

What's challenging for us right now, not only on the State level, is also on the Federal level, as you are well aware, there is Federal legislation pending on Internet access as well. It will be very interesting for us as librarians to see how these two pieces may play out, how they may

complement or supplement one other. And I think that's going to be a very important principle to watch.

One of the most important pieces of our approach in the Internet in our public library, and we have had Internet access probably about five years at this point, is to have the Internet acceptable-use policy. And that has been alluded to earlier in the discussions this morning.

Library boards, we have a library board of 17 members from Dauphin County, adopt library policies for our system. There are a number of policies that they adopt, including patron behavior -- and oftentimes Internet use can be a patron behavior issue -- use of meeting rooms, library material selections, donations, emergency procedures and so forth.

And the Internet policy is another policy that our board has very much been involved in. In our policy -- and as you well know, in the Commonwealth of Pennsylvania it is State law that all public libraries have an acceptable-use policy -- we are very clear and very precise in that policy that restricts any access to anything that's obscene, child pornography or harmful to minors.

Anyone who would go in those sites is subject to legal and/or revocation of library privileges.

Some of the things that we've done -- and we have worked over years to try to work towards handling this very sensitive issue in a number of different ways -- we have held and continue to hold Internet safety classes for parents and children to teach them about the Internet.

And those classes are not just for using the Internet in the library, but also when parents are working with their children using the Internet at home; how to be careful about not giving out personal information, the danger of chat rooms, the danger of certain sites.

We see that oftentimes people will say, well, with the Internet, what does that mean for the future of the public library. We see ourselves as guides to really help people use this powerful resource. And it goes far beyond the issue of inappropriate sites.

One of the issues we deal with on a regular basis, there are sites that deal with health information, other factual information, that if someone is not discriminating in their use of this tool, may get very inaccurate and misleading

information. So we try to work on that issue as well.

So the safety classes that we do are very, very important.

We have moved to a policy where we have parents sign a library application card about their child's ability to access Internet resources. We also do Internet training in general for the public; basic Internet, intermediate, advanced; and then Internet searching on health issues, genealogy, fund-raising and things of that sort.

One of the other measures that we put into place recently that appears to be working quite well are customized children's terminals where we do preselected links of age-appropriate, content-appropriate materials for the children in our library system.

Part of that, our Internet terminals in the children's area and in the adult area is a click-on of our policy. For anyone to proceed, they have to have read the policy. And we have for children altered the wording in a way that is much more understandable to our younger patrons. But there's so substitute at all certainly for a parent working with their child on resources of this kind.

Another very important component of this, however, is to have trained library staff. Long before the Internet, library staff, whether it be term called readers advisory staff, reference staff, children's librarians, worked with our patrons to access information that they needed to meet their needs. We train our staff to work with that same issue with the Internet, to guide people to sites that are appropriate for their informational needs, to assist patrons.

Just as we have the patron behavior policy, we monitor patron behavior in the library and use of library resources, that any violation of the policy is certainly dealt with in an appropriate manner. So the whole issue of staff training is very important here as well.

There is no doubt that this is a very difficult and challenging issue. And speaking on behalf of our library system and also from our State Association, it's very important for us to work with folks such as those around this room, because we would in a heartbeat want to work on something that is going to work well for all parties concerned.

I think that's the biggest challenge here, because what has happened in monitoring this

from where I sit, there have been libraries where they have done filtering at all of their terminals, for that to be their local policy, that have been successfully sued by groups that are against library filtering. Similarly, there are libraries that don't filter that have been sued for not filtering.

And I think it's just important for everyone to keep in mind that we are here to work with families, work with children, work with parents to give them quality appropriate information. And this, indeed, is a challenge for us, and we look forward to working with this group and any other resources that might be available to come up with a solution that we feel fits all needs quite well.

I thank you for your time.

CHAIRMAN MAITLAND: Thank you, Mr. Bowra. Mrs. Richey.

MS. RICHEY: Good morning. I am Cynthia Richey, and I was a children's librarian for 25 years before becoming the Director of the Mr. Lebanon Public Library in 1996. I also chaired the Internet Access Committee of the Electronic Information Network of Allegheny County. And the eiNetwork is a consortium that provides shared library catalogs, databases and Internet access to

more than 40 libraries throughout the county.

I'm also past President of the Pennsylvania Library Association and currently am Chair of the Internet Use in Libraries Committee for PALA. And we're working on materials for our web site that will help guide libraries in their quest to help their constituents.

I am very pleased to have the opportunity to appear before you today to talk about Internet use in public libraries.

My statement makes five points, and I would like to summarize those for you now.

As you've heard, the Internet has transformed public library service. Our libraries are no longer limited by their walls. They are able to expand their missions by providing our citizens with access to extensive information crucial to their lives, as well as access to the best of human thought and expression. As Rich articulated, Power Library from the State is one of the best examples of that.

But the real benefit of this access, Internet access, in the public library is the trained dedicated staff skilled in helping people navigate, find the information they need and

determine the validity of that information. Librarians are conduits in the delivery of information.

In my library we've helped people find information on ladybug infestations, the availability of jobs in the South Pacific, Lyme disease and Ojibwa the word for bear.

The second point I'd like to make. We know, however, that the Internet is not without its problems, that there are sites inappropriate for children. Not everyone is surfing the Library of Congress or exploring the Louve, but we also know that since 1995 when Internet access became available to the libraries in Allegheny County, we have had few problems. Our computer histories show us that.

We acknowledge that we've had some problems, but librarians have always had some problems. Those are behavior problems, and we treat those and manage them as we have all behavior problems. It's a canard that young people are accessing inappropriate sites for hours on end every day in our libraries or that they are continually exposed to them. That is inconsistent with our experience in Allegheny County and, as I hear, from

other parts of Pennsylvania as well.

The third point, we manage Internet use very carefully. Our policies and practices enable us to do that. Our library boards and staffs care deeply about children and their Internet use. We are partners with parents, teachers and others to promote positive Internet experiences. This is the primary reason that we have so few problems and complaints.

Our Internet use policy is the strongest statement about our care. Each library has such a policy as a requirement for the increased State funding, and we thank you again for that large S. These policies were developed specifically to meet local needs and were developed with community participation. All policies prohibit misuse of the library computers for illegal activities, as well as for the other things that Rich articulated when he discussed the Internet access policies; obscene, child porn, harmful to minors and anything that is explicit as referred to in our own Pennsylvania statutes.

We actively enforce our policies. They allow us to act quickly and forcefully if necessary to assure responsible use of the Internet.

They allow us to go to beyond the tap-on-the-shoulder management technique that librarians have used for many decades.

Our libraries also use other measures: Computers in high traffic areas; monitoring use by walking around; requiring parental permission or presence; logging on with a librarian; establishing time, place and manner restrictions; and one of the most successful, specially designed web sites for children and teens that incorporate child-friendly sites, as well as information for parents.

Sometimes we have notebooks beside every computer. These notebooks have information for parents on how to help guide their children. We use sites such as the Collaborative Get Netwise, a collaborative effort for Internet education; or Kids Connect and Families Connect from the American Association of School Librarians. These help parents teach children to be Internet smart, as they teach them to be street smart. And librarians do that, too.

And some libraries already selectively use site blocking or filtering software. My own library, Mt. Lebanon, doesn't use filters. The board and the community determined the flaws

outweigh the benefits. Filters provide a false sense of security, and we decided we could not hold ourselves out as having made the Internet safe. But that was a decision that we made locally, and our community helped us make it.

Inappropriate sites were allowed through by the filter tests. Legitimate sites blocked; CNN News, ESPN, Amnesty International, Southern Poverty Law Center, The Supreme Court, rape crisis centers, Congressional Candidate Jeffrey Pollick's site, and of course Dick's Sporting Goods and Beaver College.

My fourth point. As evidenced by the success of these other measures I've mentioned in managing Internet access, our local library boards and library staffs have not abrogated their responsibility to their communities.

On the contrary, they are conscientious. They know their communities and work with library staffs to effectively manage Internet access while respecting people's right to information. Moreover, our communities believe that local decision-making is of paramount importance in a Democratic society.

Fifth point. All of us want Internet

use in public libraries to be a positive experience for young people. As you do, we all care about children. Many of us are parents ourselves, and we would not advocate anything that would harm them. Libraries provide the benefits of the Internet. This is what we are doing now. It is part of our mission, and we take that very seriously.

I thank you for the opportunity to talk to you today and work with you in the future to forge an appropriate solution.

CHAIRMAN MAITLAND: Thank you for your testimony. Are there any questions? Representative Josephs.

REPRESENTATIVE JOSEPHS: Mr. Chairman, you anticipated me. Thank you.

I think this is for either one of you. And I think my last question probably cannot be answered here, but I would be interested in getting something perhaps in writing later.

How many sites do you figure, how many URLs do you figure, there are out there?

MS. RICHEY: Millions.

MR. BOWRA: I would agree.

MS. RICHEY: There are millions. Scientific American had an article not long ago

about the millions of sites and the fact that millions are added constantly around the world.

REPRESENTATIVE JOSEPHS: Or changed.

MS. RICHEY: They mutate quickly, yes.

REPRESENTATIVE JOSEPHS: The last number I saw was in a paper that was posted by this group that I mentioned before, Computer Sciences For Social Responsibility. The number was two years old, and they were guessing 18 million.

MS. RICHEY: Yes.

REPRESENTATIVE JOSEPHS: Are you aware of the fact -- and you might have to go back and take some time later and look at the bill -- that the sponsor of the bill, the maker of the bill, being a reasonable person and listening to objections, has removed from the bill the sanction of defunding from school libraries, but has not from public libraries. Do you have any reaction to that, either one of you?

MR. BOWRA: We are aware of that, and we would certainly be curious to understand the basis for the differentiation between the two.

REPRESENTATIVE JOSEPHS: Unfortunately, these aren't set up for you to ask us questions. But I am rather interested myself,

because it would seem to me that if any sanction was going to be removed, it ought to be in the other direction. Public libraries have many adult users who, it seems to me, ought to be able to access almost anything they want, so long as they are not drawing minors into that access.

However, my last question, which I would really like to see something in writing if you can. The filters cost something. I wonder how much that might cost, for instance, each one of your systems, their updating as well.

The bill calls for an expedited procedure for people who are denied the opportunity to disable the filter on the computer that they are using. I'm wondering what you think those personnel costs out to be. And there's also a provision for people who are denied after this procedure the right to disable the filter to appeal to Common Pleas Court. I'm wondering what you think your legal fees might end up being over, let's say, some course of time, all of these things, over some course of time after this passes, if it should pass.

MS. RICHEY: I'm sure they would be enormous, especially the legal fees.

REPRESENTATIVE JOSEPHS: Since I'm a

lawyer, I think that's a really good idea myself in the abstract. But if you could send us something and direct it to the Chair of the Committee.

We just made an enormous effort, and I think a very good one, to fund the libraries so they would be brought up to the State of the art of States that are around us. I voted for that and I supported that all the way through. And now I would hate to see whatever we might have done to improve your collections and your physical surroundings turned into legal fees, even though that's sort of a conflict of interest for me.

CHAIRMAN MAITLAND: Representative Egolf.

REPRESENTATIVE EGOLF: Thank you, Mr. Chairman. Thank you for your testimony, and I believe both of you are very sincere in being concerned about the problem and wanting to do something about it. But I have to ask you, for both of you, do you agree with ALA's official position on this matter, that there should be access to all material, no matter the content, to all people, no matter the age. Do you agree with that?

MR. BOWRA: Let me speak for the Dauphin County Library System, in that there have

been a wide spectrum of positions that groups have taken on this issue, from very strong in terms of the free access to the other side of the coin.

What we have done with our local board and with our local community is to acknowledge up front that this is an issue that is not going to be resolved on either extreme of the spectrum, that there are clearly legitimate arguments on both sides. It is a very complex issue.

And what we're trying to work with with our policy and our board and our local community is -- I don't know if the term middle ground is the appropriate way to go. I think the best way to say this is what is the best way that we can preserve access for those who have -- and this is always a dangerous term, to use legitimate sites that they need to get to that are not against the policy, and to meet the needs of our constituents and to do that in the most safe and effective way.

Our library system has intentionally and conscientiously not taken a position either way on either extreme because that is not our position. Our position is we need to work together to come up with something that is effective. And I think there has got to be, working with folks around this room

and others, some way to try to get the best of both worlds that's going to ensure the safety of children, families and everyone concerned.

MS. RICHEY: I can tell you what the American Library Association does with regard to Internet access and children. They provide a list of 700 great web sites that are wonderful for children, child-friendly. They select notable children's web sites every year. They have a book about drafting Internet policies for children's libraries. They have a program in place for librarians working with children on using cyberspace and educating parents about parental control measures that they can use at home. They do a lot.

REPRESENTATIVE EGOLF: May I interrupt, because I know we are time constrained. That doesn't really answer my question. I'm really concerned. I'm concerned that you're saying two sides, they're extreme. But the America Library Association is your organization that you work under, and they come out with that statement and they verified -- I questioned -- I was just incredulous to hear their position, and I questioned them at a previous hearing. And they verified that that is their position, there should be no

filtering.

Now, both of you say that libraries are very concerned about this, and I believe you. But how do you reconcile that with your own organization? Because we all know that the leadership, whether it's in business, whether it's the organization, they set the tone above.

And my follow-up question would be if you don't agree with them, have you ever brought that objection to them? Do they know? You're saying all your libraries, I think that's in both your statements. I think the libraries that you are aware of in Pennsylvania are concerned about this problem and want to do something. They are saying don't do anything.

MS. RICHEY: No, that's not my understanding of what they're saying. They do say that they care deeply about children and they're working with libraries to find effective solutions to the problem.

I think to say that the America Library Association is the organization under whom we work or to whom we are responsible is not entirely accurate either. We work with the America Library Association, the Pennsylvania Library

Association, Pennsylvania Citizens for Better Libraries. We work with a lot of organizations. We also work with people like you who give us the funding and people from the State library. So it's only one part of the group that we actually work with in developing our policies.

MR. BOWRA: I think it's very important to add to that is I look at the America Library Association as a resource of many resources that libraries can avail themselves, and librarians have the opportunity to avail themselves of what resources from the Association they feel are relevant and appropriate to their needs.

And I think that's reflected in Pennsylvania in that libraries throughout this Commonwealth have a very wide variety of responses in dealing with the Internet issue. And that while the National Association for Librarians has a specific position, as Cynthia pointed out, is by no means something that's dictated to libraries and that libraries have the ability with their own boards and their own local communities to make their decision. But the American Library Association is not an overarching policy making body or mandating anything for the libraries in Pennsylvania to

follow.

As I said, personally from our library system, we get a lot of great benefit from some of the resources that that Association provides. As our library system, however, we have taken an approach that is more tempered in manner.

MS. RICHEY: And that's my experience, too, across the country, that each of the libraries, individual libraries and library systems do tailor their policies to suit their own community's needs and desires.

REPRESENTATIVE EGOLF: Thank you. Another question here. Ms. Richey, you mentioned that your library does not use blocking software as you've determined that flaws outweigh the benefits and substantiated by research, filters provide a false sense of security. What research was done or what are you using, and how recent is that research?

MS. RICHEY: One of the ones that the library board looked at was the Consumer Report of March 2001. Another one was done by Montgomery County Library System, and that was earlier this year and I can't remember the month. There were other pieces of research that we did before that, but I'll give you those two most recent.

REPRESENTATIVE EGOLF: Thank you.

MS. RICHEY: Ever since we opened, we opened our new library in the spring of 1997. So we've been following this monitoring very closely.

REPRESENTATIVE EGOLF: Because I think there's been other research, and I'm hoping we'll hear some of that today, that refute that, because technology has been getting better and better. And at one time I think -- research I've seen, that was the problem, but that is several years old.

MS. RICHEY: This research is new. The Consumer Reports is March. They are an independent body, unbiased and not working for libraries.

REPRESENTATIVE EGOLF: I know about that Consumer Report, and I think there is some question on their research methods, but again I think we'll probably hear something later about the flaws in that research. And I hope that you would have corroborated this with other research rather than using just the one. But, anyway, I appreciate that, that you are basing it on --

MS. RICHEY: When we provide you the list of costs, we can provide you with the list of data that we used.

REPRESENTATIVE EGOLF: I would appreciate that. Also, I think you mentioned that you had very few reports of problems in your libraries. Do you require reports of problems, either of you? Do your libraries you're experienced with require reports of problems, or do they just do it on a voluntary basis?

MS. RICHEY: It's both. We have informal complaints and we have formal complaints. If anybody lodges a complaint, we give them a form and ask them to fill it out if they tell us about it.

REPRESENTATIVE EGOLF: I guess in your library systems, does the main library require the library branches to report to them when they have complaints?

MS. RICHEY: I am in an independent library, but I work in Allegheny County with the Carnegie Library that has 18 branches, and they do.

REPRESENTATIVE EGOLF: You have a requirement, you have a standard operating procedure?

MS. RICHEY: They ask them to submit reports of problems, yes. But we also collect anecdotal information, which is where someone comes

up to you and tells you something, even if they haven't written it down. Very few problems.

REPRESENTATIVE EGOLF: So it's in your regulations or requirements that all complaints would be forwarded up, so you have a central depository for complaints?

MS. RICHEY: Right, whether they're anecdotal or formal.

REPRESENTATIVE EGOLF: Thank you. Thank you, Mr. Chairman.

CHAIRMAN MAITLAND: I have two quick questions. I hope for quick answers. One is how does the Power Library address the concerns that House Bill 10 attempts to address?

MR. BOWRA: I don't know that the answer is that it addresses the concerns per se. My use of the Power Library was really more of an example of the power of the Internet and the informational resources and how they have really impacted public and school libraries in the Commonwealth.

What would be -- I don't know the answer to this, but it's certainly something for us to research, that the Power Library is a list of commercial databases, nationally accepted,

researched encyclopedias and so forth.

It would be interesting to look into the fact that if in those encyclopedia articles or medical journal articles, there are certain terms or topics covered, how that might fall into that. It's a very curious and intriguing question.

CHAIRMAN MAITLAND: And then my second question is what do you do when you are monitoring children's use of the Internet and you see perhaps a 16-year-old boy, and on his screen is lingerie, models, Victoria's Secret web site or whatever. And you walk up and tap him on the shoulder, and he says he's writing a paper on lingerie for his business class in high school.

How do you handle that situation, when it is questionable in your mind whether he is actually doing legitimate research or not?

MS. RICHEY: It would be questionable in my mind, too, whether a lingerie site would be an inappropriate site as we've defined inappropriate sites. And it's not for us to determine whether he has a legitimate reason for looking at lingerie. He could be looking for something for his mother for Mother's Day, we don't know.

We ask to see their assignments. We

ask them if we can guide them and help them. And in our library, if you want to talk about a real world experience, a 16-year-old would not be on a children's computer. Our children's computers are in the children's library facing the reference desk, and they have to sign in to use them. And it would be unlikely that a 16-year-old would go into a children's library to use our computers.

MR. BOWRA: I would just comment in terms of our use, if there were -- I think Cynthia addressed the issue of a lingerie site quite adequately. If there was something that was up a couple of notches, I guess for the best way to say it, if there is something of that sort on the screen, that may well fall under the harmful to minors or obscene, which is counter to out policy, and the person would be told to leave that site immediately.

CHAIRMAN MAITLAND: Representative Josephs, do you have a comment?

REPRESENTATIVE JOSEPHS: Yes, I have a comment. I was interested in a question about the America Library Association. You and I, sir, and the Chair here belong to a group too from which we get resources, and everybody looks at us and says,

ah, you are State Legislators. We don't agree with lots of their policies, different ones, and I think it's more or less analogous here. Thank you.

CHAIRMAN MAITLAND: Thank you both very much for your testimony. I really appreciate your time and effort.

MS. RICHEY: Thank you. Thanks for asking us.

CHAIRMAN MAITLAND: I would like to invite Timothy Allwein, Director of Legislative Services of the Pennsylvania School Boards Association.

MR. ALLWEIN: Thank you. Good morning. I am Tim Allwein, and I'm Director of Legislative Services for the Pennsylvania School Boards Association.

As you might guess, this issue is very important to our members. And as you'll see in my testimony and some testimony that, I believe, follows mine, school districts have already done a lot to insure that their students do not have access to any objectionable material.

I want to talk a little bit about the Federal law that passed at the end of last year and how it to relates to House Bill 10 as far as school

districts are concerned, and follow up with some recommendations that I have for House Bill 10 that hopefully will make compliance with that bill a little bit easier for school districts.

Both the Federal law and House Bill 10 require districts to adopt acceptable-use policies on Internet use, and both require the deployment of filtering or blocking devices to prevent access to certain objectionable material.

Probably the biggest difference here is that the Federal law applies only to school districts that receive certain Federal funding for technology under the Elementary and Secondary Education Act, which as you know is a Federal act. And also those that receive discounts on Internet access and internal connections through a Federal program that's known as Universal Service or, more commonly, the E-rate.

By our count, that would put approximately 390 of the State's 501 school districts or about 77 percent, and also 66 vocational technical schools and intermediate units under the purview of the Federal act, because they do receive those E-rate discounts.

We are not sure, however, how many

school district, if any, are covered by the act solely because they receive funding under ESEA. But if you need that information, I'm sure the Department of Education has that for you. House Bill 10 by contrast would apply to all school districts.

The Federal law says that school districts that get funding under E-rate have to certify their compliance by the end of October of this year by doing one of three things.

They have to prove to the appropriate Federal agency that they are already complying with the requirements of CIPA, which is the Federal act. They have to show that they're undertaking actions toward compliance with CIPA by next July. They can do that simply by attaching minutes from a regular board meeting saying that they talked about the issue, attach an RFP, some kind of proof that they are looking at complying with the act by July 1st of next year. Or also, I guess, there are some districts that receive certain things through the E-rate that won't necessarily qualify them under the CIPA provisions.

So one of these three things must be done by each school district that applies for

discounts under the E-rate. Failure to comply by October 28th will render districts ineligible to receive further E-rate discounts. Districts that are affected because they receive Title 3 funding will be ineligible to receive any further funding.

In both cases, however, exceptions are allowed. The school district receives a waiver, and they can do that under the Federal law if they can show that State or local procurement rules or regulations or competitive bidding requirements prevent them from making a certification by that date.

But even where district receive waivers, they must certify by October that they will be in compliance with the Federal act by July 1 of 2003.

House Bill 10, on the other hand, doesn't require any such certification of compliance. School districts must, however, submit their acceptable-use policies, the revisions of those policies to the Department of Education. And those policies must identify the software program being used and the on-line server being used to block access to prohibited materials.

House Bill 10 goes a bit further by

requiring Internet policies to establish appropriate measures to be taken against willful violators of policy and by requiring expedited review and resolution of a claim that a policy is denying a student or other person access to material that is not prohibited.

As I mentioned, we are not really concerned with the requirement for districts to write policy on Internet use. We haven't asked every single district, but my guess is that probably well in excess of 90 percent have such policies. However, we will question the total reliance on filters both in House Bill 10 and in the Federal act. And our skepticism isn't so much based on whether or not the software is completely effective, although as you heard and as you probably will hear, there will be people that challenge that.

We believe that simple monitoring and supervision of students while they are using a computer is a much more effective deterrent to Internet abuse. Almost all districts already provide monitoring and supervision. Students are rarely in a situation where they're using a computer without having a teacher or other adult in the room or nearby.

If you have ever been to a school library, you'll notice that most of the time the computers are located up front near the librarians' desks and not in the corners behind the bookshelves. The same is true in most classrooms as well, where folks would have a hard time hiding from the view of a teacher or supervisor anything that they might have on the computer.

Unfortunately, having said that for the majority of the State's school districts as I said through the Federal law, the use of Internet filters and blocking software is now the law. So we are not going to ask you to make compliance with the State law any less stringent, because we think that would be unfair to those districts who are already under the auspices of the Federal law.

But the effectiveness of the filter in use is an important question, because House Bill 10 includes a provision that allows the Attorney General, or a District Attorney or an aggrieved parent to bring an action in a Court of Common Pleas seeking a court order directing a school board to enforce a policy filed with the department. We believe that this provision is written too broadly.

If a party is aggrieved because

students were exposed to prohibited material that filtering software did not block, will the board be required to enforce their policy by buying new software, and how many times could that happen?

We are not necessarily concerned with the cost of filtering software. We have been told by our own folks, who are more knowledgable in these matters, that it's not that expensive. However, if school districts have to get caught up in continual replacement of that filtering software, we could see districts starting to suffer some large administrative costs. And, of course, in a larger district such as Philadelphia or Pittsburgh, those costs are going to be very, very large indeed.

We do like the provision in House Bill 10 that allows a list of acceptable software that has been examined and approved, that list is provided, as well as assistance from the Attorney General's Office or the Department of Education, both in writing policy -- and, actually, the only assistance that is required right now for the department to provide is in writing policy. We'll talk about that in a minute.

I would be remiss if I didn't take some time to thank Representative Egolf for amending

the bill in the previous session and removing the two most onerous provisions to the School Boards Association. The first one that was removed was a requirement that all school district Internet policies be sent to the department for approval. We thought that would have set a dangerous precedent. I don't think there is any case right now where a school district has to send in a copy of their policy on any issue for approval from anyone in Harrisburg.

The second provision that was removed was the penalty of the loss of subsidy monies that Representative Josephs made mention of earlier. We felt that was way too severe a penalty for folks not complying with this law. For that reason, we don't oppose House Bill 10.

As I said, I would like to make some recommendations that I think can make it a little more workable for school districts. And they are very quickly:

Amend Section 7 of the bill so that a school district that is covered by the Federal act would be in compliance with House Bill 10 by simply submitting to the department a copy of the certification that it has to submit to the Federal

agency saying they are or will be in compliance with the Federal law.

Districts can list the type of software being utilized without compliance. We don't have a problem with that. Essentially that would prevent the school district from having to jump through two hoops for the Federal law and one for the State law.

Delete or amend Section 8F, which is the court enforcement language that I mentioned earlier. Again, we think it's written a little bit too broadly. It could cause increased cost and, frankly, public embarrassment to a district for an action that may not be its own fault. At the very least, the section should be tightened up so that court orders are allowed only in instances where a school board has not taken the proper action in a timely manner.

Expand the language in Section 6B that requires the Office of Attorney General and Secretary of Education to assist districts in the help of developing a policy. I'm not, frankly, so sure districts are going to need a lot of help there because they all have solicitors or else they call us and we help them out. We have a staff of folks

that helps people and helps school districts with policy.

But that section should be expanded to provide assistance to districts that request help in selecting a software program or an on-line server that perhaps some other districts have had good success with. And I know there's going to be the list of approved -- not approved, but software that's been reviewed. Again, that will be very helpful as well.

We urge you to retain the language, the current language, in Section 6A, which is the language on the review of software programs, but not to make a requirement that only those software packages that have been reviewed can be used. I think you don't want to limit school districts here. If they find something that is effective or more effective than something else, they should be allowed to use it.

In addition to my testimony, I have enclosed a few samples of school district Internet policies. You will see that two of the three that I have enclosed address the issue of filters. They all address the issue of security as well.

A short summary of both the Federal

law and the E-rate program that I've cited throughout.

I thank you for the opportunity, and I'll be happy to answer any questions.

CHAIRMAN MAITLAND: Thank for your testimony. Are there any questions? Representative Josephs.

REPRESENTATIVE JOSEPHS: Thank you for your testimony. Thank you, Mr. Chairman.

I was surprised to hear you say, Mr. Allwein, do you think that House Bill 10 requires the use of on-line filters that work from the servers?

MR. ALLWEIN: If you look at the language -- and I don't know if I have a copy of the bill -- it talks about using software or on-line servers to filter access.

REPRESENTATIVE JOSEPHS: Or. I don't know the place to look.

REPRESENTATIVE EGOLF: That's correct.

REPRESENTATIVE JOSEPHS: So an institution wouldn't be required to use an on-line server?

MR. ALLWEIN: That's correct.

REPRESENTATIVE JOSEPHS: I thought I

heard you say --

MR. ALLWEIN: The problem that we can run into though, and one of the reasons why, as I mentioned, you should retain the language, the current language, that does not force the district to use something that's been reviewed by the Attorney General is, to the extent a district is using a server, an off-site server, to provide Internet services, if you require districts to use something that's on a list and that server is not using it, which is not the fault of the school district, then the school district has to go and find another server, which I don't think is appropriate.

REPRESENTATIVE JOSEPHS: But the district could hypothetically use a filter that was based in each PC?

MR. ALLWEIN: Correct.

REPRESENTATIVE JOSEPHS: If its server was noncompliant?

MR. ALLWEIN: Right, it could do that.

REPRESENTATIVE JOSEPHS: Thank you.

MR. ALLWEIN: Sure.

CHAIRMAN MAITLAND: Representative Egolf.

REPRESENTATIVE EGOLF: Thank you, Mr. Chairman. Thank you, Mr. Allwein, for your testimony. I agree, we've worked closely on this and I know that you're very concerned with the problem.

I might just answer Representative Josephs' question earlier. One of the reasons that we agreed with your request to sort of keep the Secretary of Education out of enforcement of this, because we have an elected body, the school board which governs the schools, since they are elected and answerable to the public, we felt that that was sufficient, where as we don't have that elected body at that level of the library. So that's the big difference.

And it's an entirely different situation, too. With school children, you don't have adults generally accessing those computers. So there were some reasons, and we agreed with that. Because we are not trying to make this an onerous regulation or law. We are trying to solve a problem. And we felt that that was one way of doing it. And, of course, if it does in the future, we'll look at it.

I would like to ask you a question.

You said that PSBA is not concerned with the need for school districts to write policy on Internet use.

MR. ALLWEIN: Right.

REPRESENTATIVE EGOLF: But we do believe that total reliance on filters and other blocking devices is unwarranted. I don't know if you're aware, that's not the total reliance on that. That's just a minimum. In other words, using filters but you can use other things, supervision and so on that you mentioned. Are you aware of that?

MR. ALLWEIN: I know you can use that. I don't think those things are mentioned in the bill, though. Correct me if I'm wrong.

REPRESENTATIVE EGOLF: I believe you will find that the bill does say as a minimum or at a minimum or at least filters or servers. But you can do these other things. And certainly if that works, the more things that work the better. That's what the bill does. I just wanted to point that out to you.

MR. ALLWEIN: The other thing, and I'm glad I took a look at the testimony of the gentleman to follow, because he does cite some statistics in

there showing that many school districts, the large majority of them, already are using filtering which was something I didn't know until I checked into some of the policies that we had from other school districts.

REPRESENTATIVE EGOLF: In fact, I was going to ask you if you knew how many schools are using filtering.

MR. ALLWEIN: I won't steal his thunder. He's got it in his testimony, so I'll let him tell you.

REPRESENTATIVE EGOLF: You said you believe that the provisions are written too broadly to allow parents to bring action. Are you aware also that the bill does -- if the school follows the requirement of having approved filtering or servers that are approved by the Secretary of Education and the Attorney General that they cannot be held liable?

MR. ALLWEIN: I appreciate that, but I used the words public embarrassment. You could have a parent whose son happened to see something and told his parents that maybe some other kids were able to get access to because the filter didn't block it. And if you look at the bill, I think that

parent could actually go to the Court of Common Pleas and have the court write an order to the school district to, quote-unquote, enforce their policy. Which my guess is that would mean, No. 1, to punish the students. But it could mean also that they need a better piece of software to block access to that material.

REPRESENTATIVE EGOLF: Let me ask you.

MR. ALLWEIN: That's where I think we find a situation that could be troublesome.

REPRESENTATIVE EGOLF: Maybe with the fact that you don't have to rely strictly on filters, that you have supervision. What you said almost invariably occurs, they have supervision. You said it's very rare, I think, up here, students are rarely in a situation where they are using a computer without a teacher or some adult in the room with them.

So with that in mind, would it be much of a risk? If you have both, the supervision which you say is always there and the filters, wouldn't that be very rare to have that occur and --

MR. ALLWEIN: I think and I hope you're right, that it probably would be rare but --

REPRESENTATIVE EGOLF: Supervision,

the way it is now, if supervision prevents it, then this is just adding more prevention of that happening.

MR. ALLWEIN: I understand, but kids being kids, whenever you put something into place to prevent them from doing something, you know -- and we all had them in our class when we were in high school. You know somebody's going to try and beat it somehow. There's a lot of smart kids out there that can do amazing things with computers. And, again, it may not be a common occurrence, but it can happen.

REPRESENTATIVE EGOLF: Also, you mentioned about would the board be required to buy new software if what they had was not working. Are you already aware that the Secretary in conjunction with the -- and I think it was mentioned earlier -- Attorney General have to give you a list, give the schools a list, of approved software. So if you are using that approved software, I don't think that would occur, would it? How do you see that happening?

MR. ALLWEIN: Well, again, looking at it from the school board perspective from the local level, if you have a parent at a school board

meeting and he's making an issue out of it, telling them that you are using something that's on a list from the State may not be an adequate answer, unfortunately.

REPRESENTATIVE EGOLF: I was interpreting that you thought--

MR. ALLWEIN: It would certainly cover the school district, there is no question about that. I'm just saying that --

REPRESENTATIVE EGOLF: You are not going to be forced to by a higher authority.

MR. ALLWEIN: I didn't mean forced by the State. I mean forced through the power of public opinion.

REPRESENTATIVE EGOLF: And then one last question. You mentioned that expanding the language of Section 6, that the Secretary of Education should assist the school districts that request help. Again, I think that's provided for in the bill.

MR. ALLWEIN: Well then, very good.

REPRESENTATIVE EGOLF: Thank you.

CHAIRMAN MAITLAND: Thank you very much for your testimony today, Mr. Allwein.

MR. ALLWEIN: Thank you.

CHAIRMAN MAITLAND: I would like to invite David Burt, Market Research Manager of N2H2, Inc., and author of Dangerous Access. Mr. Burt. Thank you for being with us today.

MR. BURT: Thank you for having me. As you recall, I testified here last year, as well last year I testified to the wonders of the Internet through a high-speed video connection, and it's nice to be in person.

I've testified before here, I've testified at the COPA Commission before Congress and various other places. I am the Market Research Manager, and we make filtering software in the United States. I'm also a former public librarian.

I'm here to talk about how filtering software works and how it's being used. I would like to address the problem of Internet problems in public libraries.

As the problems have mounted with Internet pornography, there have been more of them, there are now thousands of documented incidents of patrons, many of them children, accessing pornography in public libraries, libraries have really struggled with how to deal with this.

And one of the approaches that many of

them take as a policy, in fact, according to the American Library Association, almost 95 percent of public libraries in this country already have a policy. But the fact that we see these incidents increasing in frequency and in severity I might add, and at the same time as we've seen almost total adoption of policies, shows that these policies really aren't working very well.

I'll give you a few examples. One is the Minneapolis Public Library that Laura Morgan is going to talk about later on. But since they have had the Internet in 1996, they have had a policy at the Minneapolis Public Library. But the policy that the Minneapolis Public Library has didn't prevent them from an action being brought against them for violating the EUC rules.

Twelve librarians, one man and eleven women, accused the library of being a hostile, offensive, palpably unlawful, working environment, where images of sex, child pornography and child rape were routine, as were incidents of fondling by some library patrons at computers.

In their complaint, the librarians told of hard-core pornographic web sites left unattended and open for anyone to see and graphic

printouts left on tables.

The Broward County Library in Broward County, Florida also uses an Internet policy. They also use education, too, to encourage appropriate use of the Internet. The Broward Public Library also reported that there were 14 incidents of masturbation documented by library and police reports, two incidents of men exposing themselves, and one instance of a man fondling a female patron.

The Broward Library configures all public access computers in the children's area to default to the ALA's 700 plus Great Sites for kids. Unfortunately, creating a bookmark for children did not prevent this incident from occurring at the Broward Public Library: "Young man probably 13 or 14 years old had accessed something having to do with sex with animals. He acted strangely, perhaps also masturbating."

The library's policy and the library's education in 700 Great Sites did nothing for that child.

The Los Angeles Public Library also has a policy. And in the Los Angeles Public Library, according to the Los Angeles Times, the machines are regularly steered to on-line photos of

naked women, digitized videos of sex acts and ribald chat-room discussions."

A far more First Amendment friendly and effective way to address this problem is through filtering software, as many libraries now, almost 4,000 public libraries in this country, have discovered after trying the policy-based approach and seeing it fail.

The Greenville, South Carolina Public Library suffered problems similar to those in Minneapolis. An internal report found that, "a large number, perhaps 50 percent, of the users on one afternoon were young men going to pornography sites." Library staff found that female staff are intimidated by this activity. One female staff member said, I felt dirty coming home at the end of the day.

To stop the illegal activity and harassment and restore staff morale, the library board chose to install filtering software. Since they installed filtering software last year, abuse of the Internet has stopped. Further, no patrons have complained about being denied access to legitimate sites.

This experience has been repeated

across the country. The Orange County, Florida Public Library also had similar problems. Director Dorothy Field described them as, "A number of people were coming into the library and accessing sites that would be described as hard-core pornography. I am not talking about Playboy and naked ladies. They would view this stuff for hours on end."

After installing filtering software, the Orlando Sentinel reported that, "complaints from library patrons about others viewing porn have dropped since the screening system was implemented."

A good example of the process that many of these libraries have gone through with policies and then eventually ending up installing filters is the Camden, New Jersey Public Library. As was described in the Philadelphia Inquirer: "The library system bought workstations whose monitors were sunk below table level, making it difficult for others to see what was on the screens. Problem solved? Not quite.

That took care of the problem for an extended period of time, Director Claudia Sumler said. As we kept adding computers and a training center, the pornography issue started to come up again. Student assistants helping with the new

computers were being exposed to pornography."

The library eventually ended up installing filtering software. Four thousand public libraries have installed this software.

In addition to these examples that we've seen and the popular filtering software, I would also add that there is no empirical evidence to suggest that posting lists of 700 great sites, offering Internet safety classes or having policies has any meaningful effect on patron behavior or preventing children from accessing pornography.

As I pointed out, filtering software has been adopted by nearly 4,000 public libraries. According to research from the U.S. National Commission on Library and Information Science, that number has increased from just 1600 in 1998 to 3711 in the year 2000, or 24.6. So nearly one out of every four public libraries are now using filtering software.

Not only is this software now being -- and in public schools, as the gentleman before me pointed out, it is much more widespread. A May 2001 study from the National Center for Education Statistics finds that 74 percent of public schools are now using filtering software. That's three out

of four public schools. Even before the Federal legislation, three out of four public schools had adopted this software voluntarily.

And the reason for that is very clear. You see these public schools try a policy-based approach. They try to have one teacher in a classroom monitoring 30 teenage boys and trying to make sure they're all not looking at things they're not supposed to be, and it just simply doesn't work.

You need a comprehensive-based approach. Just simply relying on education and a policy is like relying on driver's ed without requiring seat belts. You need a more comprehensive-based approach for it to be effective.

Studies that have been done of how librarians use filtering software and how much they like it show that filtering software is widely popular among libraries that use filtering software.

In April and May 2000, library researcher Dr. Ken Haycock conducted a study of school librarians and public librarians on the use of filtering software, for the magazine School Library Journal. An impressive 90 percent of public librarians who use filters responded that "the software serves its purpose either very well or

somewhat well.

And when asked if they were overall satisfaction with a decision to install filtering software, 76 percent of public librarians said they were either very satisfied or somewhat satisfied.

This is backed up by the experience these librarians themselves have. Most of these librarians when you ask them, such as David Ruff, Executive Director of the Rolling Meadows, Illinois Public Library said that, "In the week since the filtering policy was expanded, patrons have not noticed the difference" since they put filters on all terminals.

Joan Adams, Director of the Jefferson Parish, Louisiana Public Library said that added restrictions were hardly detectable by library patrons.

Finally, Judith Drescher, Director of the Memphis-Shelby County Tennessee Public Library said that since installation, the library has received no reports from the public to review and block a site. Library staff has submitted five sites for review, all of which were blocked."

The types of filtering software in use today are, in fact, quite well suited for use in

public libraries, as more and more libraries have selected filtering software and more and more schools. Filtering companies have fine-tuned their products to be the types of features that public libraries want. The majority of filtering software packages widely used in public schools and public libraries have features such as they can be overridden at the work station level. When a patron encounters a site that's wrongly blocked, they can usually ask the librarian to override it, and the librarian can enter a password.

We find that doesn't happen an awful lot and that librarians don't spend a lot of time overriding wrongly blocked sites. There's no specific research that's been done on that particular topic, but the evidence from listening to librarians, from talking to them, what they say about using filtering software doesn't suggest that this is a serious problem.

Most of these packages allow you to set different levels. You can have more restricting filtering for minors. You can set them on different work stations. You can have one group of work stations that has only blocking the really hard-core stuff and then another group of work stations that's

blocking more things than that. And have those in use by minors and some in use by adults.

Most of them have some kind of a feedback mechanism, where you can send an e-mail message to the filtering company or to the library itself suggesting that a site be block or a site be unblocked.

Most of them break their categories down, the ones that relate to sexually explicit material, by multiple levels. We'll have categories like hard-core or we'll have nudity or lingerie or sex ed. So that if somebody wants to block only the really nasty stuff, they can do that without blocking the lingerie sites and without blocking the sex ed sites and that sort of thing.

One last thing I'll address is the cost. The one gentleman brought that up. The best data we have on that is a market research report that was conducted by Frost and Sullivan. I would submit that for the record, except that it cost $4,000, as most, you know, market research reports do cost a lot of money so I will quote from it.

It's called Content Filtering Markets. It was in the year 2000. And it found in 1999, the average annual per user licensing and subscription

fee for educational products was $13. So that a library with like, say, 100 work stations would pay $1300. And that's about right. That's about $13 a share from the pricing that we get and the pricing that we see from our competitors, we think that's probably a pretty accurate estimate.

Thank you.

CHAIRMAN MAITLAND: Thank you very much for your testimony, Mr. Burt.

Are there any questions? Representative Josephs.

REPRESENTATIVE JOSEPHS: Thank you, Mr. Chairman. Thank you for testifying. I've been on your side, of course, as soon as I saw that you were going to testify.

You have a privacy policy, is that not true?

MR. BURT: N2H2 has a privacy policy?

REPRESENTATIVE JOSEPHS: Yes.

MR. BURT: Yes.

REPRESENTATIVE JOSEPHS: Can you explain to us why you need a privacy policy and what it is?

MR. BURT: Well, we have a policy about information that's collected from people that

come and visit our web site. If -- like most companies, most every company that's in business has a policy about when people visit their web site, if you are there shopping for a product, what kind of information that they collect and how they use that and that sort of thing.

REPRESENTATIVE JOSEPHS: Do you also have a disclaimer on your web site? I thought I found one once, but it might be another company.

MR. BURT: I don't know what kind of a disclaimer we have on there.

REPRESENTATIVE JOSEPHS: Would you be so kind to forward that, please?

MR. BURT: Sure, I would be happy to do that.

REPRESENTATIVE JOSEPHS: Your company doesn't -- if you buy the software, will it block bulletin boards, e-mail, chat rooms, news groups, those kinds of Internet activities?

MR. BURT: I don't have the category list in front of me, but I know that we do have a mail group and we do have a category for a free e-mail that will block the e-mail sites. We do have a category for chat group sites that will block chat rooms and those sorts of things.

REPRESENTATIVE JOSEPHS: Does that add to the basic cost of the software?

MR. BURT: No.

REPRESENTATIVE JOSEPHS: No?

MR. BURT: Not at all.

REPRESENTATIVE JOSEPHS: If you have something or you can direct me to a site that would explain that or direct the Committee to a site.

MR. BURT: I would be happy to. There is a list. It's about ten pages long. It explains all our categories and what they mean. It's on our web site.

REPRESENTATIVE JOSEPHS: I think I have that list, but it doesn't -- I have some questions about it, but I'm not going to ask them since we are behind. Because some of the sites that do block, for instance, militants, I wonder whether we would end up having people blocked from getting to groups like the National Rifle Association or those kinds of things.

How many web sites do you figure, how many URLs do you think are out there?

MR. BURT: In the universe?

REPRESENTATIVE JOSEPHS: Yes.

MR. BURT: I've seen various

estimates. When we talk about URLs and sites, it's important not to confuse the two, because I frequently hear people do that.

REPRESENTATIVE JOSEPHS: That's true. I'm sorry.

MR. BURT: A web site is a unique site like CNN.com that may have hundreds or thousands or in a few cases even millions of URLs attached to it. A URL is a specific page.

I've seen -- the estimate -- there are much better estimates for the number of URLs. I've seen in between one and two billion total are the studies I've seen. In terms of the number of sites, I've seen them anywhere from seven to thirty million, depending on how you define a site which is an issue and how you're counting.

But the number of URLs, number of unique pages on the Web is between one and two billion I've seen.

REPRESENTATIVE JOSEPHS: And your company purports to screen these one or two billion URLs?

MR. BURT: We don't need to screen every single one of them. We do about 4.7 million is what we do. And the reason we're able to do that

is because almost all of the category that we are trying to block is category that want or are web sites that want to be found. Porn sites don't try and hide from you. They jump up and down and scream, please find me. There have things that they put in, they're called metatags. They have ways of loading up their pages so that they're identified by the search engines. They really want to be found.

REPRESENTATIVE JOSEPHS: I've never found one, but go ahead.

MR. BURT: They're pretty easy to find. Go to Yahoo or Alta Vista and type in sex.

REPRESENTATIVE JOSEPHS: I'm always on the computer, always.

MR. BURT: You can find them very easily. In fact, the National Center for Missing and Exploited Children did a study a year or so ago where they found, I think it was, about one in four regular Internet users had been exposed to --

REPRESENTATIVE JOSEPHS: I'll go back. Maybe I'll have better luck.

MR. BURT: -- access to pornography. We don't need to screen all through two billion web sites, because that category is making itself -- that content is making itself very available to us

so we can go out and get it.

REPRESENTATIVE JOSEPHS: Do you screen for foreign language sites?

MR. BURT: Yes, we do.

REPRESENTATIVE JOSEPHS: How many? What kind of languages?

MR. BURT: I don't have a list with me, but I know that we do have reviewers that are fluent in Portuguese, Spanish, Japanese, Chinese, and several other languages.

REPRESENTATIVE JOSEPHS: How many foreign language URLs do you think there are? I mean, this is a guess, I know.

MR. BURT: The last time I read, I read something a few months ago that said that the amount of content on the Internet that was not in English was approaching 50 percent, somewhere in that neighborhood. So it's getting close to half the content on the Internet is foreign language.

REPRESENTATIVE JOSEPHS: A lot of Chinese, I understand.

MR. BURT: Yes, Chinese is getting very big, that's correct.

REPRESENTATIVE JOSEPHS: One more. What was it? Images, do you screen for images?

That don't have words attached? If you have a page that's a URL all by itself?

MR. BURT: With nothing but an image on it?

REPRESENTATIVE JOSEPHS: Yes.

MR. BURT: Well, again, I mean, if you want to defeat a filter by just putting up an image with no text around it so that no filter and nobody can find it, you can do that. And probably if nobody knows about it, no filter is going to find it, but nobody else is going to find it either. So it's kind of what's the point, you know.

Because we are trying to find content that wants to be found. I mean, that's really the issue. I mean, if you could put up a site and hide it so that nobody can find it, but what kid is going to see that if we're not going to find it.

REPRESENTATIVE JOSEPHS: I just got a magazine from the University of Pennsylvania. They talk about the fact that they had they thought on-line, the largest historical photographic collection on the globe, historical artistic value. Those photographs don't have any text except the size of the photograph and sometimes what -- a short description, this is a native American woman, this

is whatever.

I'm assuming that those would not be blocked.

MR. BURT: I would assume not. That is not the type of thing that we would block, no.

REPRESENTATIVE JOSEPHS: Regardless of what the subject matter might be of any of those photographs?

MR. BURT: It would depend. Something like that in a historical archive, it is pretty unlikely that we would block it. We do have like an exception category that we call historical, which is something, for example, we have blocked sites for -- under violence that were pictures of war atrocities and things like that. But we have an exception called history, and those would fall under that, so they wouldn't be blocked if you didn't want to block things that were of historical value.

REPRESENTATIVE JOSEPHS: And you are employed by this company and your livelihood depends upon selling these products?

MR. BURT: That's correct.

REPRESENTATIVE JOSEPHS: Thank you. Thank you, Mr. Chairman.

CHAIRMAN MAITLAND: Representative

Egolf.

REPRESENTATIVE EGOLF: Thank you, Mr. Chairman. Thank you very much for your testimony. I have just a couple questions here. I may have missed it. I'm not sure. You said that about one in four public libraries now use filters, and then you cited the number that were very satisfied and somewhat satisfied. I'm just curious, in that somewhat satisfied, would they be on the side that preferred the filters or not, since they were not completely satisfied? Was there anything to indicate that any of those would like to go back to non-filtering?

MR. BURT: Not that I can see, no.

REPRESENTATIVE EGOLF: So the percentage of those two, greatly satisfied and somewhat satisfied, seem to be, I guess, happy that they have had filtering now. They weren't saying it's bad.

Some of the things we hear that filtering is not good enough, it's bad filtering and so on. I'm taking that that they are on the side of saying it's good enough and we're glad we have it?

MR. BURT: That's how I would interpret that. And I would say that's very

impressive too, considering the level of skepticism that you see among public librarians about filters that you would get satisfaction levels that high really says a lot about how effective the product is.

REPRESENTATIVE EGOLF: Do you have a percentage of the number of sites that have been wrongly blocked, because that seems to be also a criticism.

MR. BURT: From what I've seen from where people have actually gone in and examined log files, which that's really the only way to tell how well a filter is working is to look at how it actually blocks real traffic from a library, school or in your home, rather than just presenting a list of a dozen or so wrongly-blocked sites. That really doesn't tell you very much about what effect a filter is going to have if you install it in a public library.

But where people have done that and actually gone in and looked at log files. I think the best one was done by a group of people who were opposed to filters in the Utah public schools. It was less than one tenth of one percent of all the Internet traffic was being wrongly blocked.

And that really supports what public librarians are saying when you ask them that are using filters, are you having any problems with the filters. And they're saying no, we're not having problems or we're having very few problems, it's very rare. Librarians just simply don't report this as a problem.

REPRESENTATIVE EGOLF: Thank you. And then also some libraries are saying, librarians and so on are saying, that this is suggesting that maybe the only filter computers that children use maybe have a separate room for adults. Does your research show any of the adverse secondary effects of doing that, such as we know there's research showing that sex crimes increase around areas of bookstores, for example. Do you have any data that shows that sort of thing happening?

MR. BURT: I don't have any data on that, but there are plenty of examples though. And Laura Morgan will certainly address this, that the Minneapolis women when they talk about their experience describe how when they installed the Internet with unfiltered access that it brought a new type of patron in, people that had never come into the library before.

And other libraries report this, that the person that these librarians describe as porn addict, people who come in and spend hours at a time. As Miss Field was talking about in the Orange County, Florida Public Library, hours on end, a new type of user that will spend hours doing this. And these people tend to be sex offenders, some of them. And, frankly, having them spend hours and hours looking at porn in an environment where children are is something that I would consider not a very safe environment for children, no.

REPRESENTATIVE EGOLF: One last question. Maybe this would help Representative Josephs' concern there. Can you give us some examples? I've read some examples of Internet sites that attract children because of their words, like Bambie.com or that sort of thing. Can you give us some examples of some of those? And -- well, go ahead.

MR. BURT: Yes, there's actually a study that was done about that about six or eight months ago by a company called Cybervalence in Europe, and I could certainly give you a copy of that. What they found was there were several thousands examples -- I forget how many thousands.

I hate to throw out numbers without knowing the exact figure -- of examples of where pornographic web sites had used popular brand names and many of them toys, such as Nintendo and Disney and Bambi and things like that.

They use what they think is going to draw traffic to their web sites, too. And if that's something that's going to attract children then, so what. They don't care as long it's drawing traffic to their web sites.

REPRESENTATIVE EGOLF: Then I know I was told about some sites where you get into it and you can't exit it without turning the computer off completely. You can't go back and you can't hit that icon to exit or whatever. Is that very prevalent?

MR. BURT: It is real prevalent. I don't have any statistics on how many porn sites actually do that, but I know that it's a very common problem. And it's very common to read in the newspaper or talk to people who say I got to this porn site and then 15 more porn sites opened up.

And I know that at work we have that problem a lot with our reviewers when they review porn sites. I've seen 20, 30 windows open up at the

same time. You keep clicking and clicking and you can't shut them all down. That is a serious problem.

REPRESENTATIVE EGOLF: I had some complaints from parents about that happening when the child was at school, for example. One was in school and one was at the library, where the child got into it and couldn't get out and was scared and didn't know what to do and was afraid they'd get in trouble. They tried everything and just went deeper and deeper into porn.

Thank you very much, appreciate it.

CHAIRMAN MAITLAND: Mr. Burt, how long have you been in this business?

MR. BURT: I've been in this business for a year now. Before that, I was an activist that promoted filters and was also a public librarian.

CHAIRMAN MAITLAND: Has the price of the product decreased, increased or changed appreciably in the last couple of years?

MR. BURT: I would say if anything it's decreased. I don't have exact figures for you, but there's been more competition lately. More companies are entering into the space, particularly as they see big opportunities in corporation in the

enterprise sector, and there's a lot of pressure there with more companies.

CHAIRMAN MAITLAND: How frequently does the product change? I assume you're updating it all the time.

MR. BURT: Every day.

CHAIRMAN MAITLAND: Every day?

MR. BURT: Yes.

CHAIRMAN MAITLAND: Is it becoming more and more effective over time?

MR. BURT: We think so. We are adding new categories. We are finding new ways of identifying content. The COPA Commission last year, our CTO, chief technical officer, Kevin Fink, testified about that. And he has a paper that's on the COPA Commission web site describing all the techniques that we've used to identify content. And it's really quite a complex task. And we are continually refining those techniques to do that and adding more things.

CHAIRMAN MAITLAND: And the opposition so to speak, these sites that you attempt to block, are they actively trying to thwart your product?

MR. BURT: No, we don't find that at all, because again, as I said, these are sites that

want to be found. They could try and thwart our product, but that would be shooting themselves in the foot. Because in order to hide from the filters, they'd have to hide from the users who are trying to find them. And they want to be found by the users. So, no, they can't really do that without shooting themselves in the foot.

CHAIRMAN MAITLAND: Thank you. Thank you very much for your testimony. Representative Josephs.

REPRESENTATIVE JOSEPHS: There are some remarks that were made that I really think I cannot let go by. I am astonished to learn that people actually construct a site which would annoy the user so much that the user would never go back to that site. I find it -- in other words, the user would have to reboot.

And I would suggest based on the experience that we have had here the last couple of days with our Internet use where we all had to reboot, that there may be some other reason for folks getting on sites and finding their computer is frozen.

I do not believe that any person in his or her right mind would abuse a potential

customer. And getting to customers, I also don't believe that anybody without a credit card number would be able to view and view and view and view for hours.

If so, there is somebody with anti-business sense, and I hope you never hire that person, because whatever has gone in to putting together that site is getting viewed for free. And that's not the point of those sites.

And I think I had another question along those lines, but go ahead, with the Chairman's indulgence.

MR. BURT: Thank you. The answer to those questions oddly from a traditional business sense, those don't make sense as practices don't. But the economics of the Internet are strange in some ways, and those practices reflect that.

Porn sites get paid for how many times somebody clicks on their site. There is an article in the industry standard that was published about a year ago called how the porn sites do it, and I can send you that if somebody will remind me.

And the whole economics of porn revolve around thousands of free sites that point people to a small number of pay sites. That's why

there are all those free sites, because their mission is to try and point people to the paying sites where you have to do a credit card.

The sites that offer it for free get paid. They get paid like a penny or a fraction of a penny for every person they direct to those pay sites. That's why they open up like 30 windows, because they're getting like a penny for every one of those 30 windows that are directing people to the porn sites. Those windows that are opening up, all those 20, 30 windows, are windows to paid porn sites, and they're paying the person that open that window a penny to do that.

So that's kind of why that all works like that. It has to do with really the strange economics of Internet porn sites.

REPRESENTATIVE JOSEPHS: Thank you. Thank you, Mr. Chairman.

CHAIRMAN MAITLAND: Thank you very much, Mr. Burt.

MR. BURT: You're welcome.

CHAIRMAN MAITLAND: We appreciate your testimony.

Next I'd like to invite Christian Ophus, President of the Internet Safety Commission

and FamilyConnect, Inc.

MR. OPHUS: Good morning. There is some information I would love to cover. My name is Christian Ophus. I am cofounder and President of FamilyConnect and S4F Technologies. Both of those are Internet filtering companies. That is my primary purpose of business.

But in addition to that, I also serve as the President of the Internet Safety Association, which was formed last year and headquartered in Washington, D.C. for the specific purpose to be able to deal with some of the issues we're talking about today on the legislative front, from the standpoint of public relations and people wanting to get the truth of information about this subject.

I appreciate Miss Josephs' comments at the very, very beginning concerning her desire to try to have somebody who may be on a neutral ground as far as filtering is concerned. I think the problem is, unfortunately, I don't know that that's going to exist.

And this may be a bad example, but if you're talking about the subject of abortion, it's very difficult to find somebody who is neutral on that subject because it involves socio or Christian

ethic or whatever you might want to call this. This is an issue that skims on morality. And because of that, it makes it very complex.

But what I would like to say to Ms. Josephs is our company, S4F and FamilyConnect both, target different markets than libraries and education. Less than one percent of the revenue of our company right now is through libraries and education. I would like to do more of that, but as it stands right now, I would like to try to be for you a person who could give you as much information as possible about filtering, how it works, and dispel some of the myths, because there are a lot of myths out there.

And I will tell you, let me start off by saying filtering is not fool proof. It is not one hundred percent effective. It's reasonable effective. In fact, in my opinion as time moves on, even in the last, I don't know, 12 months, 24 months, the advancements that have been made in the filtering technology industry are staggering.

So I'm not going to go super into depth onto this, except for to skim over a few points that have been talked about today. And I invite you all to read some of the comments that

I've made in here.

To start off, let me say this. The Internet, because it's the convergence of all of these new mediums; television, radio, print, postal service, telephone service, all of these things are coming together on the Internet. And there's a convergence of them. Even the U.S. Government is spending 3 billion dollars this year in E-rate funds to be able to put computers.

The educational library industry is very much wholeheartedly putting their arms around the Internet as a source for education to be able to use it. At the same time they're doing it and spending this huge amount of money and being able to put these kids on these terminals, not really a whole lot up until this last year has been done with regards to, hey, can we make sure we protect these kids. So I think that's a big issue.

I would like to say this, that I believe that one of the sacred cornerstones of the founding fathers was to preserve the free transmission of ideas. I am very, very much for free speech. But aside from free speech, there is obscenity harmful to minors and illegal activity that has to be addressed. Those things are not

covered under the free speech amendments. So I think it's very important as we look at that.

Another question I have is, is what makes the Internet immune to existing laws and statutes that are already in place. If we already have existing laws and statutes about harmful to minors, even as it pertains to books and things that are in libraries, why would the Internet be any different?

The Internet is a very viable tool for business and education, but there's definitely been conflict and controversy concerning the effectiveness of filters. So I want to take just a minute and talk about a few of those.

The very early on filtering type products that were out there very much were more rudimentary in that they had to search for things like keywords like triple X or Middlesex, England. We heard that talked about a lot, where they were searching for the word breast or the word sex.

The unfortunate thing in my opinion is is that those arguments are still being used today as reasons why filtering is ineffective, and that is just simply not true.

For example, our company S4F

Technologies two and a half years ago, we created a system called Intelligent Keyword Search String Blockout. And what that basically meant is, is through the keyword component of our filter, which we have several components, through the keyword component a person could go to a search engine and they could type chicken breast and they would be able to go to those sites. But if they typed just the word sex alone, it wouldn't be able to. So there's a series of what we call the naughty-word database. It's a huge database.

And David made reference to even words that are in other languages, where we have hundreds of hundreds and hundreds of keywords, perhaps thousands, where we can search and be able to find some of these web sites.

So the issue of the keywords is really not an issue anymore. I don't know of any filtering system that relies, one, solely on keywords. And, two, if they do rely solely on keywords hasn't found some way to solve this type of a problem, because it wouldn't be an effective product. And because it wouldn't be an effective product, it wouldn't be purchased.

One of the things that the first two

people up here talked about was Consumer Reports, that a library had used Consumer Reports as one of the bases, foundations, of what they had determined that filtering was ineffective.

I was very excited to see the Consumer Reports had put out a story on this before I read it, because I've always held that Consumer Reports had a great standard. And what I started reading the Consumer Reports article, I was very concerned, because immediately I started to find out that there was not going to be what I would consider accurate statistical data done.

In response to the article, I wrote a letter to the editor, David Heim of Consumer Reports, and I would like to outline real quick what I felt were the concerns of the Consumer Reports. Once again, the reason why is because not only here have I heard it mentioned, but also three weeks ago when I testified before the Subcommittee for the United States Congress, it was mentioned also by a gentleman from the ACLU. So I know that the Consumer Reports article is being held right now as proof positive that filters are ineffective, and I need to be able to dispel that myth.

First of all, I told David Heim in the

letter that the objectionable site content sample they used was only 86. It's a very, very small sample.

Second, a thoughtful set of criteria should be established to the selection of the sites. That was not apparent. They only tested six of the 141 filter related products that you can find on a typical filter site, called getnetwise.org, which I recommend you looking at. It's a great site to find out about the different types of products.

Fourth, none of the filters that they tested were typically used in the educational space, and that's fine. But the problem with it was was that just as an incident of the article after the Consumer Reports had done this on the ineffectiveness of filters, they wrote a story on well, see, this is why the government should not be involved in filtering and what happens in schools and libraries.

Well, none of the products they used were typically used in the educational states. They were all client side or commercial type products used in your home.

And, lastly, the test that was conducted did not even include, in my opinion, one

of the most important aspects of filtering, and that is the ability for the filtering to be overridden or bypassed by web savvy children. And if I have enough time, we can address that also.

I was very glad to get a response back from David Heim. And, in fact, I have a copy of it here. I did not include it my testimony. I apologize. I'll be happy to let you guys have that.

But in the second to the last paragraph he responded and this is what he said, and I quote: We are guilty of testing only so-called client side software. One of my claims was is that he had only tested client side software. Since our founding in 1936, we've focused on testing products available to consumers at the retail level. It is not part of our brief to test software sold exclusively in schools or libraries.

By analogy, we would test garden hoses, sponges and auto polish, but not special car wash equipment. So, in essence, he was saying we don't and we never will be testing any products that would be used in libraries.

So the summary of my point here is to use the Consumer Reports article as a basis that schools or libraries, filtering is ineffective is

completely bogus entirely. So I submit that to you.

Also Christopher Hunter, a COPA panelist, was quoted by saying, "The majority of the reports about Internet content filters being both underinclusive and overinclusive have come from journalists and anti-censorship groups who have used largely unscientific methods to arrive at the conclusion that filters are deeply flawed."

And that's part of the reason why I made the comment a moment ago to Miss Josephs is that right now I wish there were an organization that could do a completely unbiased report to it, but it hasn't happened yet.

I don't want to waste a whole lot of time going into the specifics of how filtering works, with the exception of just mentioning that I talk about some of the content that can be blocked. I'd like to make a comment about one of the things that David Burt had said. I do have a list in front of me here from N2H2 of some of the categories that they offer for filtering.

But what I would like to add is, is that when a school uses N2H2's product that has these categories, by no means does the school have to or even in most cases do they ever block all of

these categories. But what N2H2 has done and companies like S4F is we offer multiple categories, so that we can take the control of what is or isn't blocked down to the local level.

The local librarians would resent the U.S. Government or even the State Government for that matter saying this is what your community standard should be. So every filtering company I know is building programs and software that specifically allow the local control of the library.

Now, of course, there's going to be categories of harmful to minors, obscenity, child pornography, those types of issues. In the setting of a library, I wouldn't imagine that most of these categories, if any, outside of the illegal ones we're talking about would ever be blocked.

But the reason why these exist is because in the corporate marketplace where corporate dollars are being used, corporations are saying, hey, we don't want our people looking at job sites or stocks or some of these other things. So that is the reason why those categories exist. I felt it was important to talk about that.

The next thing is talking about how filtering is accomplished, I listed some of the

details on that. But I would like to say that one of the important issues is the fact that virtually every system I know that works in the school or library type setting has administrative override, where a person who is in charge, librarian or administrator, can come over if a site is inadvertently blocked. So you are not having an issue so much where a person just can't get to a site.

I wanted to make a comment also out of the Legislative Journal that Miss Josephs had made I believe it was on November 4th -- Representative Egolf's staff was kind to send this to me here -- with regards to the proposed amendment that she had made. And I wanted to address it just to make sure that everybody understood how this works.

She had made an amendment where there would be an exclusion to where contemporary history, anatomy, physiology, anatomical research, health information, sexual dysfunction sites, pregnancy education, art history education, biology and sex education would not be blocked, so that adults or even children for that matter who may want information in some of those areas would be able to go to those.

And in his comments, Mr. Egolf basically says that most of the technology out there already excludes these types of things. And I would just like to reinforce that we are not blocking sex education sites, we are not blocking sites, even there's some physiological sites that may have what you consider nudity in them. But those types of sites are not intended to stir the purulent interest of the viewer. So because of that, we don't in our company block those types of sites. So I wanted to address that.

Let me see if I can -- oh, I'd like to make one other comment about how these sites are caught. There were some comments about how in the world could we keep track of so many web sites that are out there. And you're absolutely right, it is a difficult thing to do. It's virtually impossible to be done solely by human review.

Our company, S4F Technologies, has what we call computer spiders. And what these computer spiders do is they go out and scour the Internet for these keywords, metatags which Mr. Burt mentioned, and pulls up the web sites that we feel probably are sites that would be considered pornography. We compare them to our existing list

to make sure they're not already in there. But then we throw them into a pile and then we have humans review those web sites. And when we do that, we do it with the images off so that it doesn't put any undo burden of exposure or those types of things.

So my point is, is there is very sophisticated methods that filtering companies are using right now to be able to track and effectively control this. The problem is, is that even in the time we have been here today, there could be hundreds, perhaps thousands, of sites that have come up new. And they may not be original porn sites, but what they are is sites, people who are reselling porn sites or perhaps even people who have personal sites.

So you don't see 7,000 new pornography businesses going up on the Internet. What you may see is 7,000 a week new people who are reselling one of the particular adult entertainment industry's core sites. I hope that makes sense there. We on the average block in the porn category about 7 to 8 thousand a week is what we're adding.

I'm not going to go into any of the specifics on the client side software, the proxies, the browser settings. Safe to say that there's

different versions for that.

I would say just in closing that HB 10 is very well written, especially because it has terms like reasonably, considered to be harmful to minors, and those types of things. I think it's a very well written bill, and I encourage you to pass this bill, because I think there is a crying need for filtering and there's a crying need to protect our children. And I believe that filtering companies have figured out many ways to do that and not at the expense of the First Amendment.

Thank you.

CHAIRMAN MAITLAND: Thank you very much for your testimony, Mr. Ophus.

Any questions? Representative Josephs.

REPRESENTATIVE JOSEPHS: Thank you. Thank you, Mr. Chairman. Thank you, Mr. Ophus. I was grateful for the description of the mechanical and human review of these sites. If I buy your product, will you show me the list you developed so I can decide whether or not I want it, of the sites or the URLs?

MR. OPHUS: Yes. There has been considerable debate about that. And part of the

debate has been because some filtering companies believe because they have competitors and they're still a business, that that's proprietary information.

My problem with showing a list to somebody is, is that if I give you the list for you to look at, then that means some kid can go get a list of all of these objectionable sites also. So you're defeating -- you see what I'm saying? You're defeating the purpose of allowing you to be able to look at it.

Now, I tell you what we do -- and I don't know about N2H2, we'd have to ask David. Our company has on its web site, S4F.com, a place where you can go in and you can type in any URL that you want to know if we do or don't block that, and we will come back and say yes or no to you.

But, no, we don't publish the entire list. But it's less about the intellectual property than it is about just not making that available to kids.

REPRESENTATIVE JOSEPHS: If nobody bought your software or anybody else's software because they were not willing to trust your judgment over their's, what then?

MR. OPHUS: Okay.

REPRESENTATIVE JOSEPHS: If nobody bought it. I would not buy your filtering software unless I got a list of what you were filtering.

MR. OPHUS: That's why I believe you have things like sophisticated categories. In a case where you have a school or a library --

REPRESENTATIVE JOSEPHS: I think that my question is really rhetorical. If nobody would buy it without revealing the list, you would reveal the list.

MR. OPHUS: I'm not sure it's as big of an issue to other people. I know it's an issue to you because I know we have talked about it here for a couple of questions. So that means it's an issue to some people. I know that thought has come up before.

If I had a way to be able to privately, for the sake of legislation, say we would love to show you our list so that you could go through and check it. But let me make another point on this if I can, and I'll be real short, I promise.

The gentleman I testified with from the ACLU before the U.S. House of Representatives and Congress made a comment flippantly that, well,

even today we found a web site where a chicken breast recipe was blocked. This information was kind of just thrown out there.

So my response to him was, what specific software was that, what time was it, where did it happen. And obviously there was no answer for that. So I think that there are from both sides, they're kind of thrown in this direction because most of those lists aren't available. However, there are some companies that do make the list available.

REPRESENTATIVE JOSEPHS: This Internet Safety Organization, who makes up the members?

MR. OPHUS: Yes. I'm sorry, I should have said that. The Internet Safety Association is mostly -- I wouldn't consider it a lobby organization as much as I would a trade association of companies that are filtering organizations.

REPRESENTATIVE JOSEPHS: Thank you. Thank you. That's exactly what I thought.

MR. OPHUS: No problem.

CHAIRMAN MAITLAND: Representative Egolf.

REPRESENTATIVE EGOLF: Thank you very much. Thank you for that testimony. I think that

was outstanding. I have no questions because you covered it. The things you haven't covered verbally are in your written testimony. So I just hope that people will read that.

MR. OPHUS: Thank you.

REPRESENTATIVE EGOLF: No questions.

CHAIRMAN MAITLAND: I don't have any either. I could have you here for an hour or two going over the details. But I really appreciate what you had to say about the Consumer Reports.

MR. OPHUS: May I respectfully make one last comment if you don't mind because I want to make sure I say this. I think the point that Miss Josephs is trying to make is that we all have somehow a personal interest in this law passing. And as having a company, there is an element to that that I believe is true.

But on the same note, the reason why I started this company, and I'm so passionate about being here, I paid my own way to come up here, I have no schools or libraries in Pennsylvania that we service whatsoever.

The reason why I'm passionate about it is because I have four kids, and I know what's out there because I've spent the last couple years

specifically looking at it. So my passion and my drive to here is not because, oh, goody, the State of Pennsylvania is going to pass this law. And I respectfully say that, because that is my intention. And if you don't mind me, I just wanted to say that.

REPRESENTATIVE JOSEPHS: I don't question your motives or your intention, but you have a pecuniary interest and so does your -- I mean, I'm getting paid for doing this job, too.

MR. OPHUS: That's true.

REPRESENTATIVE JOSEPHS: Thank you.

MR. OPHUS: That's fine. Thanks.

CHAIRMAN MAITLAND: Thank you very much. I appreciate your testimony.

If our stenographer is still good, we'll move on then to Sayre Turney and Carrie Gardner.

MS. TURNEY: Good morning. My name is Sayre Turney, and I am a library media specialist in the school district of Lancaster, a position that I held for 33 years. In addition, in the school district I serve as a charter member of our Technology Overview Committee. And for your information, our district has 11,000 plus students housed in 22 buildings. I also serve as Chair of

PSEA's Legislative Committee.

At the request of Patsy Tallarico, President of PSEA, Carrie and I are representing the 159,000 members of the Pennsylvania State Education Association. Dr. Gardner is from the Milton Hershey School District.

House Bill 10 raises the question of local determination versus State determination on a subject that until now was entirely a local matter. On one hand, school districts are concerned about protecting the children we serve from inappropriate material at any time. On the other hand, educators have a deep and abiding interest in preserving the decision-making process of parents and school children -- excuse me, parents and school officials in selecting age appropriate materials for the education of children.

Educators would certainly not allow a magazine stand selling pornographic literature to be set up in the lobby of one of our high schools. The inappropriateness of such an act is obvious.

For decades prior to the advent of the Internet, educators had to deal with students who would bring inappropriate materials into their schools. For the most part, these incidents were

handled by teachers and principals in time honored ways by policies and procedures locally adopted.

In the electronic age, we have the prospects of having the inappropriate material enter the school via the Internet. In reality, this is just a variation on the ways enterprising youngsters used in the past to sneak offensive material into school.

Not surprisingly, the education community has responded by adopting acceptable-use policies. These policies are largely locally developed or are adaptations of policies shared by other school districts. Not only have the acceptable-use policies been adopted, but consequences for violating the policies are in place in our State school districts.

A law requiring State approval and State sanctions would have the effect of imposing a one-size-fits-all solution to a problem that is already being treated by local officials.

In my own school district when a teacher plans a research unit, the teacher and I meet and come up with a list of acceptable Internet sites that students may use. Students are then made aware of the list and of the consequences of

deviating from it.

Considering all aspects of the problem, PSEA has concluded that the need to have a law with a Statewide effect is largely unnecessary. Before the time of the Internet, controlling appropriate materials used in a school curriculum was in retrospect easy. Most, if not all, the school districts in Pennsylvania have acceptable-use policies.

Judging from the low number of complaints and comments we received from our members on this subject, we can conclude that the policies in place are adequately protecting students from inappropriate materials on the Internet.

We have also followed the development of screening software. Although the software is becoming more and more sophisticated, it does not perform perfectly. Imposing the use of filtering software that has been shown to be troublesome on the schools and libraries is to impose a large number of headaches.

So the challenge would seem to be weighing the need to create a law that would require school districts to have Internet usage filtered versus retaining local control for school districts

to choose age appropriate materials on the Internet.

House Bill 10 would remove a large measure of local authority to make self determination on appropriate use policies, sanctions for offenders and control over the costs of software and personnel needed to operate a filtering operation.

To go into these issues in more detail, I will turn to Dr. Carrie Gardner, Coordinator of Library Media Services at Milton Hershey School, a position she has held for two years. She also serves on the Board of Directors at the Pennsylvania School Librarians' Association and has chaired the American Association of School Librarians' Intellectual Freedom Committee.

Her focus will be on the use of filtering software and the issue of acceptable-use policies and training.

MS. GARDNER: Thank you. Thank you for the opportunity to present PSEA's views on these matters.

I would like to take a few moments to talk about how implementation of this law would affect day-to-day operations in Pennsylvania schools and specifically school libraries. I have spent my

life working in and around school libraries.

From the testimony given before us, I feel that you have a good background on how filtering software works. I would like to give you some real life examples of how when filtering software was employed, the educational process was interrupted.

You've heard about keyword filtering. Commonly used filtering packages have keyword filtering built in. You've heard about the breast example. I won't focus on that.

XXX is an example that is mentioned in some of the testimony. It does designate in our society pornographic information. It is also commonly used as a Roman numeral. Scientific papers posted on the web by researchers often employ Roman numerals. Youngsters wanted to access scientific papers, research reports, are often blocked from those sites simply because somewhere in the paper XXX appears together.

Another example that caused quite a flurry in the school library community happened a few years ago when Federal tax dollars funded a little rover to Mars. NASA was able to beam back instantaneously photos of the martian surface for

the first time in the history of mankind.

They posted those pictures to a web site, and they named -- the URL of the web site was marsexplorer.nasa.gov. S-E-X was in the middle of that word; the last s in Mars, the ex from explorer. And, in fact, those pages were blocked from school students because of the URL. Obviously, nothing pornographic was found on the surface of Mars.

I would like to talk for a moment about something that teachers call the teachable moment. Working with young people today is an interesting fast-paced experience. The youngsters of today are very busy. We have all heard about how hurried our children are, how involved they are in extracurricular activities.

And many of them have short windows of time to do their research. And if they encounter filtering software, it does two things. One, it prevents them from accessing the information they need to complete their assignment. The second thing if does is that it presents an air of mistrust. It presents a roadblock for students intellectually, and they are not stupid. They recognize that what they are trying to do is simply complete their assignments as given by their teachers, not do

something immoral, illegal, etc.

An interesting thing that has happened with this filtering packages as of the last year is that they have decided to block the work high, H-I-G-H. And, in fact, many school web sites contain the word high adjacent to the word school, because it is, indeed, a web site for their high school. For example, Lebanon High School.

And their own web sites are filtered in their own school systems.

House Bill 10 in Section 4A3 and Section 5C provides expedient review and resolution of a claim that the policy is denying a student or other person access to material that is not within the prohibition of the acceptable-use policy.

On a practical day-to-day operational level, school systems do not have the extra personnel to deal with those requests that would inevitably come into play. It would not be unusual to receive 10, 12, 20, 30 requests from one school building.

My co-presenter here works in a school district with 22 school buildings. And there would need to be personnel hired at great expense to handle those requests, and that is an undue burden

that the school districts are not in a position to handle.

What would be gained by such a requirement above the present locally controlled system? Very little. Years ago, long before the Internet was a word in our vocabulary, did inappropriate material come into school buildings? Yes. Did we as educators handle it? Yes. Did we need a law requiring a search of every student before they entered the school? No.

Most, if not all, school districts already have acceptable-use policies. They were developed by local citizens looking at local situations in order to meet the local needs of their students and educators.

I have appended to the testimony a number of examples from across the State. I purposely chose some small rural districts, some large urban districts and a few suburban districts. You can see that there are similarities, but yet there are differences based on those local districts situations.

Many of the districts have taken a lot of time and effort to develop policies that included the input of local community leaders, not just

school board members, local religious leaders, local stakeholders in education. And to supersede this with a State law would disenfranchise that entire process.

Finally, House Bill 10 will reduce the opportunity educators in our State have to teach students how to act appropriately on the Internet. The reason I remain in K through 12 education is that I believe firmly that we have to educate young people about how to be productive citizens of this world. And in this day and age, in order to be productive citizens, students must be able to handle themselves appropriately on the Internet. And the job of a K through 12 school district is to teach that set of skills to the students.

Filtering Internet access runs a high risk of taking that away, taking that skill set away from our young people.

I will now turn it back to Ms. Turney who will discuss cost.

MS. TURNEY: Filtering software for individual computers or resident software on a server will have cost implications for school districts. The initial cost is approximately $40 per computer.

Currently, my own district has looked at some free and been exploring some free filtering software, only to find that it won't work with our firewall or it won't work with our main frame server and so forth. If we had to spend approximately $40 per computer in our district, I am guessing that the cost would exceed a hundred thousand dollars. And that doesn't count the man hours to install that software and get it up and that it works with everything. Keep in mind, my district right now has a 2.2 million dollar budget deficit.

The software is in constant development so upgrades are frequent. This amounts to additional cost. The expedited review process provision would require systems personnel to be constantly tweaking the filter for individuals seeking information blocked by the mindless software.

Either personnel would need to be hired to fill the need or the student would be denied access to the information in a timely manner because the district was not able or willing to hire adequate staff.

In the first instance, considerable cost would be incurred. In the second, loss of a

learning opportunity would occur. Some intermediate units offer a filtering program for a fee. The cost is significant when upgrades, technician time, software purchase, etc. are considered.

Finally, the mandated review requirements of the acceptable-use policy by the Secretary of Education would add to the clamor of accusations of needless regulatory requirements.

If Act 48 approval by the Department of Education can serve as an example, turn around time is three to four times longer than advertised. To speed it up would require additional personnel and additional cost.

I want to thank you for your time, and we look forward to answering your questions.

CHAIRMAN MAITLAND: Thank you very much for your testimony. Representative Josephs.

REPRESENTATIVE JOSEPHS: The Chairman is so nice to me. Thank you, Mr. Chairman.

I was very interested, Dr. Gardner, in your talk about the moment of teachability, which I notice is much more pronounced among my grandchildren than I remember with my own children. I think you are right. The demands that are made on children are beginning to be as onerous as the

demands made on adults, but that's a whole other discussion.

I was struck by that in thinking over the testimony from one of the gentlemen from one of these companies who claimed, I believe, that 50 percent of the people were in the library or some very large number for the sole reason of accessing porn sites. But when those porn sites were filtered out that none of the librarians could notice a difference in day-to-day operations.

So I'm wondering -- I mean, I didn't mention it at that point, because I thought it would fall of its own weight. But then later on I thought maybe I should bring that up.

I would be very interested -- of course, you don't have the same kind of monetary interest in collecting those kinds of antidotes or those kinds of incidences. But if you know of them, I think it would be very important for us to hear what kind of incidents happen when library patrons of school libraries, whether it's the parents of these children or the children themselves or high school students have, when they encounter these things. And what happens to them when they encounter the filters, and what might happen to them

when they go to someone to ask whether -- that the filter be disabled.

MS. GARDNER: Certainly. Let me say that I deal primarily in school libraries. And most of the patrons in the school library are adults connected with the educational process and the students.

There have been a number of instances across the country where school employees have been fired or disciplined for using computers inappropriately. There have been instances of that in corporate America in businesses all across the country.

What's interesting is that it is not necessarily porn. It can be the stock quotes, someone who is too concerned about the performance of their portfolio and not concerned enough about the job of which they were hired to do.

I am not aware of instances of adults looking at pornographic information in a school library setting. That has just not come across my desk.

When students look at something that's inappropriate -- and, again, if they're in the library to do research on their science term paper,

looking at a Shakespeare site could be deemed appropriate and would be cause for an adult in charge of those students to say, young man, you are on one site, you need to get back to the science site so that you are completing the assignment for which you are here.

In a school situation, there are adults working with youngsters to make sure that they are on task.

REPRESENTATIVE JOSEPHS: Well, if you do know of people who are aggrieved by filtering mechanisms, I would appreciate you forwarding them to the Subcommittee or the Committee Chair. I don't know what the procedure is. Do they go to you or do they go to --

CHAIRMAN MAITLAND: I guess they go to me and I make them available to the Committee.

REPRESENTATIVE JOSEPHS: So the Subcommittee Chair. I would appreciate that from anybody who is here who is a librarian or a teacher. Thank you. Thank you, Mr. Chairman.

CHAIRMAN MAITLAND: Representative Egolf.

REPRESENTATIVE EGOLF: Thank you. Thank you for your testimony. Both of you are

citing a lot of reasons why there could be problems from filtering in the schools, but 74 percent of the schools are already doing it. How do you reconcile that? They're doing it on their own without even having any legislation requiring it. Why would they be doing it if there are so many problems and it doesn't work or it's too costly or all these things? How do you reconcile that?

MS. GARDNER: I reconcile that with the local decision. Across this nation, school systems have looked at the issues of Internet access and made the decision about whether or not filtering is appropriate for their situation.

In those districts that have decided to filter, my guess is that they have the financial resources to hire someone to monitor that filtering software and that that person, a part of their job is to be available to make sure that they can tweak that software and allow access to the perfectly acceptable, educationally valid sites that are inevitable blocked by filtering software.

REPRESENTATIVE EGOLF: I would think if three quarters of the schools are doing this, if 75 percent are doing this, there must be a problem out there that they are trying to prevent or cure.

So I think that tells us something. If they are doing it on their own and they are handling all these problems you're citing while doing it, there certainly there must be some good reason for it.

MS. GARDNER: I would be happy to forward to the Chairman three research studies about the number of school libraries filtering. One study published in School Library Journal puts that number at 33 percent. I think I'm aware of the study that you're citing that has it at 74 percent. And the University of Indiana recently published research that had it around 45 percent.

So it seems to me that there is a lot of conflicting research about those numbers.

REPRESENTATIVE EGOLF: That certainly is something -- if it's that different, there's got to be something wrong. It should be easy to get those figures I would think.

You had cited some of these problems with keyword filtering, but we just had testimony that that's pretty old technology. How long ago was this that you -- you're citing something like NASA dating back to the Mars Explorer and having blocked. When was that? How long ago?

MS. GARDNER: Well, actually that

example took place a few years ago, because that's when the rover was walking around on Mars. The incidents of high are about a month old, the incidents of high school being blocked.

What happens is school districts implement filtering software, and then the person in charge of it must educate themselves and learn to tweak it. And actually we have to hope that they purchased a package that allows them to unblock or allow access to sites that are blocked.

It's entirely possible that they could have purchased a system that does not allow that, and then the educational community in that district must deal with not having access and not being able to do anything about it.

REPRESENTATIVE EGOLF: That's probably a good reason for having the Secretary provide a list of filters that do what we want them to do. Because what you're saying is if they just go out there and do it on their own, they're going to maybe get some bad filters or not good and so on. So it's probably just a good thing then to have a list of acceptable filters.

MS. GARDNER: Only if the Secretary of Education is provided with the funds to hire the

people to really do the research on the filtering software.

REPRESENTATIVE EGOLF: I think they probably would be if they're going to do it for all the schools.

I have a question. You mentioned about selecting -- preserving the decision-making process of parents and school officials in selecting age appropriate materials for the education of children. How does the appropriateness of child pornography and obscenity and material harmful for minors, which are already defined in statute, how can that change from one place to another? And based on age, how can that change from different ages and so on?

I mean, it's straightforward across the board from computer to computer it's all the same. So how can that vary in necessity to look at that based on age and based on different schools?

MS. GARDNER: It is my understanding that child pornography is illegal in this country. It is my understanding that obscenity is a legally-defined term and that anything declared obscene is also illegal.

So when librarians talk about age

appropriateness, those two categories are not in the running. When we discuss age appropriateness, we talk about the fact that Dr. Seuss books are probably not purchased for a high school library. Likewise, the complete unabridged Shakespeare is not purchased for an elementary school library.

If I taught sixth graders about chemistry, I would probably not take them to the dissertation of a Ph.D. in chemistry. I would probably not suggest that they use that in their report. If I had a high school AP chemistry student, indeed I would suggest that they incorporate the Ph.D. level research into his report.

REPRESENTATIVE EGOLF: My point is, though, yes, those things, I agree with you, should be selected locally. But this is one that crosses all boundaries. This Internet goes in everywhere and it's the same material. So why would we stick with that old requirement of locally determining, because it is already determined for you? So why is this a bad thing to restrict that access on the Internet to things that are not varying from school to school, not varying from age to age?

Why do you still find that that's such

a bad thing and have this decided at a higher level than the local level when it is a straightforward decision and takes it out? There is no decision to make at the local level. Do you see what I'm saying? There's no decision that your school versus this school. It's already illegal. It's already decided.

MS. GARDNER: If filter software only filtered out obscenity and child pornography, I know I wouldn't be sitting here. But the fact of the matter is that filter programs filter out lots of information.

In school systems across the State, we teach health, and part of health involves the human body. And many of those sites are filtered. One of my favorite sites that I found filtered was some NIH sites, National Institutes of Health sites, that talked about diseases of the body, because indeed they had black and white pencilled drawings. And those were filtered last summer when I was working with a group in Washington.

Those sites were filtered, but yet they were Government sites directed at consumers. Our young people can benefit by having access to that knowledge, including high school students

learning about health issues.

REPRESENTATIVE EGOLF: The legislation allows that. In other words, the legislation makes a minimum, says you will filter obscenity and child pornography and material harmful for minors at a minimum. But then you can go beyond that and filter other things if you want. That can be a local decision.

With the filtering that's required here, it does exactly what you want. It takes out the illegal material automatically as a minimum required by legislation, but it allows you then to do other things, to restrict it further if you want, but certainly not to restrict it less because it is already illegal and it's everywhere. So I don't see that that conflicts with what you're saying.

MS. GARDNER: I see that it does conflict. We have trained educators who are there and know those kids and are able to say, you know, you need to be accessing this information. You are doing your report on Sylvia Platt poetry, you need to be accessing those web sites.

And so teachers are working right alongside those students to teach them the higher-level thinking skills to be able to

discriminate the information they need, and that translates into later life. We all have to be consumers of information as adults, and we're trying to instill those skills into our youngsters in the K through 12 world.

REPRESENTATIVE EGOLF: So they should be allowed to have the pornography come in and teach the children to look at it and decide what is appropriate?

MS. GARDNER: No. They should be allowed to develop the skills needed to determine what information is appropriate for a given situation.

REPRESENTATIVE EGOLF: Including pornography?

MS. GARDNER: Actually, I have to tell you that a number of years ago I worked as a high school librarian, and I was standing over a child's shoulder and the English teacher was standing over her other shoulder. And a page with a partially nude woman came up, and it actually probably had to do with the metatags. And that young woman clicked the back button, went off of that page and went to the next hit in her search.

And I blush. And when I blush, I can

feel it in my face. And I remember thinking, oh, my gosh, there's a male teacher standing right there, this is a student. And, you know, I was standing there blushing and perspiring, and that student was able to handle that situation. She went back and went to the next site. She immediately had the critical thinking skills to say a scantily clad woman is not going to help me with my English paper.

REPRESENTATIVE EGOLF: With you looking over her shoulder?

MS. TURNEY: May I also give an example, sir?

REPRESENTATIVE EGOLF: Yes.

MS. TURNEY: I too work at an inner city high school. Many of our kids are streetwise. The language sometimes isn't so great.

I can always tell when something has come up on one of the 30 computers in my library which are directly opposite my circulation desk and where I spend most of my day with the computers. You can always tell a kid who has had something come up inadvertently that is inappropriate, because you hear, Miss, Miss, Miss, come quick, come quick, come quick, get me out of this.

There is no doubt in your mind what is

going on. They know. We have a few slick ones, and we did discipline one severely this year. But that's one out of twelve hundred kids. In most cases, my kids know what's inappropriate and they know to ask for help. Because they're scared to death they're going to lose their computer privileges, and they don't want that to happen to them.

REPRESENTATIVE EGOLF: I have a lot of questions. I think I'll -- that's fine.

CHAIRMAN MAITLAND: Mrs. Turney, Dr. Gardner, thank you very much for your testimony. It's greatly appreciated. Thanks for your time here today.

Move on then next to invite Miss Laura Morgan, librarian with the Chicago Public Library.

MS. MORGAN: Good afternoon. Can you hear me okay?

My name is Laura Morgan, and I am the architectural librarian at the Chicago Public Library, a position I have held since 1989.

I want to thank Representative Allan Egolf and the Pennsylvania House Judiciary Committee for giving me the opportunity to submit testimony in support of House Bill 10, the Child Internet

Protection Act. I also wish to commend all of the individuals who support this critically important legislation.

I am speaking today as a concerned citizen and parent and am not representing my employer. One might wonder why a librarian would travel from Illinois to speak on behalf of a Pennsylvania Internet filtering bill.

The answer is this. The topics I will discuss regarding Internet pornography are relevant to every public library in the United States that offers Internet access.

Before I begin speaking about the negative impact of Internet porn in libraries, however, I want to stress that my criticism should not diminish the numerous positive aspects of libraries. I have been a fan of libraries since I was a child. And when I completed by degree in library science, I was truly grateful to be hired by one of the finest public libraries in the United States, if not the world.

In fact, it is because of this deep regard for the library profession that I chose to become an outspoken critic against -- of unrestricted Internet policies. Since the summer of

2000, I have raised my concerns to the Chicago Public Library Administration and its Board of Directors. I've testified at two Illinois House hearings on this matter, and most recently testified before the U.S. House of Representatives at a hearing entitled E-rate and filtering.

Although the Internet is an incredibly valuable tool on many levels, it has also made available a sizable amount of unreliable, false and offensive material that was previously unknown in public libraries and public schools.

The primary concern in the library setting has been the easy access to pornography, from soft-core to illegal obscenity and child pornography. Libraries across the United States are dealing with this issue in many different ways, ranging from restricting access via filters or acceptable-use policies to no restrictions as all.

Since the beginning, the Chicago Public Library and countless others adopted the latter anything goes kind of policy. Although many of the incidents I will report today occurred at the Chicago Public Library, I want to stress that they are by no means unique to that institution.

In his report entitled, Dangerous

Access, Uncovering Internet Pornography in America's Libraries, David Burt, who is a guest here today, documented numerous similar incidents occurring at libraries across the country.

As I see it, the goal of House Bill 10 is to minimize the many negative consequences that can result from the easy availability of Internet porn at public libraries and public schools.

The first point in the bill's declaration of policy states, the Commonwealth has a compelling interest and duty to protect children from exposure to obscenity, child pornography and other materials harmful to minors.

The basic concept of protecting children is one point that most people tend to agree with and one that is reflected in many restrictions for minors already exist in our society. For example, minors under the age of 18 cannot purchase pornographic magazines in their local convenience store, patronize X-rated bookstores, rent X-rated videos and so on.

Unfortunately, because of the Internet however, far too many young people access or are exposed to pornography in public libraries and public schools, both intentionally and

unintentionally. As a parent of two children myself, this is my number one concern.

I have spoken to several Chicago public library children's staff members who have described incidents of children under the age of 14 viewing pornography in children's departments.

In defense of their policy, the library administration claims that staff can monitor what kids are doing at all times while they are using the computers. Many staff have told me this is not possible. I think this is an important point to bring up, because some of the previous testifiers claim that these acceptable-use policies work and that people can monitor this. And, as I said, it is simply not possible, and many of the librarians at my own institution have told me this.

For example, when I was working at a branch library for just a few weeks in the month of December, a little 9-year-old girl, again 9 years old, told me that it bothered her when she went into that library branch and saw the boys looking at what she called nasty pictures on the computers.

I want to ask what kind of a message does that give to a child of that age when she goes about her local library, the place that is touted as

a safe haven for a safer neighborhood. Those are actually the words on a sign on the door of that library, which by the way is in a pretty rough neighborhood in the City of Chicago.

At that branch, I also witnessed how adept some of the boys are at hiding what they are doing because they change the screen when someone walks by. After they left the library, I could easily see by looking at the recent search history and bookmarks that they had accessed extreme triple X porn sites. Have we as a society become so desensitized that this does not bother us? I sincerely hope that's not the case.

In addition to children under the age of 14 accessing porn in children's departments, minors under the age of 18 have been known to access porn in the subject departments of the central library where I work, as well as on the adult computers in the branches.

I believe it is obvious that many patrons, and in particular teenage boys, deliberately seek out Internet porn in libraries. This will continue to be true regardless of how many American Library Associations, educational programs or acceptable-use policies are in place.

The fifth and sixth points in the declaration of policy deal with the issue of sexual harassment. There is no question that the issue of sexual harassment is critical to this and similar bills, both ethically and legally.

From my own experience and from what I read and hear about from other libraries, the Internet porn surfers are almost exclusively male, and the staff and patrons who take offense to the pornography are overwhelmingly female. Not only does this present a danger to women and children, but the entire environment of the library suffers because of it.

In my own workplace, the unlimited free access to pornography is attracting men who can only be described as hard-core porn addicts. Almost every day on the floor where I work, I see many of the same adult men and teenage boys viewing and sometimes printing pornography. Security guards have told me that some of these men surf for triple X porn for hours on end going from floor to floor. Our building is the largest public library in the United States. We have ten stories, so they have many places to roam.

I was frequently told that the porn

surfers now even frequent our ninth floor special collections reading room, where one staff jokingly refers to these men as Internet scholars. If the fact that male patrons are allowed to porn surf is not bad enough, consider for a moment the behavior that it encourages, including overt harassment and public exposure and masturbation.

And I know I've heard the argument that this is always happening in libraries, which I think is a pretty ridiculous comment. Surely, there has been bad patron behavior in libraries prior to the Internet, but when you make hard-core porn available, there is no doubt that these behavioral problems are increasing.

Not surprisingly, library patrons also have been offended. I have had several adult female patrons complain to me about this issue on the floor where I work, and it has also happened throughout the central building and in the branches.

I think it is one thing to argue that library employees must put up with this as a condition of employment, but I think it is quite another to argue that female patrons must also endure unwanted exposure to pornography due to the alleged rights of the almost exclusively male porn

surfers.

I also want to comment, too, that sometimes the argument is that, well, we don't get any complaints about this, there must not be a problem. I believe the Commissioner of the Chicago Public Library at one point said they had only received three formal written complaints in five years.

Now, just in the last month, I have had, I believe, three verbal complaints from female patrons. And whether or not those people write a formal letter, who knows if they're going to go to that level. But, again, the lack of formal complaints is not an indication of no problem.

The issue of Internet porn creating a sexually hostile workplace is particularly relevant in light of a recent case involving the Minneapolis Public Library, which was mentioned earlier. In May of 2000, twelve library staff members made a complaint with the local EEOC over the egregious working conditions which were a direct result of a similar open-access policy.

According to the Minneapolis Star Tribune, "Librarians complained of hard-core pornographic web sites left visible on vacated

terminals, etc. Pictures included scenes of bestiality and child molestation." Patrons complained that anyone walking through the library could see porn on computers.

On May 23rd, 2001, just two weeks ago, the EEOC concluded that due to the library's unrestricted Internet access policy, the administration had, indeed, subjected its staff to a sexually hostile work environment which is a violation of Title 7 of the Civil Rights Act of 1964.

Although the EEOC is not involved with the Chicago Public Library case, the issue of Internet porn is now under full investigation by the City of Chicago's Sexual Harassment Office. This happened as a direct result of comments I made at the public library board meeting September 19th of 2000. Because I used the phrase sexually hostile work environment, I was asked to speak to attorneys in the Sexual Harassment Office.

A positive result of my three and a half hour meeting with the attorneys on December 1st, 2000, was their decision to commence a full-scale investigation. Considering that the corporate world is taking the issue of Internet porn

very seriously in light of sexual harassment lawsuits, I am pleased that the City of Chicago is at the very least looking into the matter.

The second point of House Bill 10's declaration of policy deals with the issue of obscene material and child pornography. In a hearing I attended last September, Bill Harmening, Deputy Chief of Investigations for High Tech Crimes in the Illinois Attorney General's Office stated that "it is common knowledge in the business of pedophiles and traders of child pornography to go to your public library and download it because it's there."

Although he was not speaking specifically about the Chicago Public Library, I have heard accounts by guards and staff that patrons are accessing child porn on library computers on occasion. And the point is, too, apparently the guards have been told that people are allowed to view it, only when they print it is that considered a crime. Considering the heinous nature of these kind of images, I find it simply unconscionable that the library administration allows patrons to even view such materials.

Next, I would like to discuss the two

methods of restricting access to the Internet; the acceptable use tap-on-the-shoulder method versus filtering. If one accepts the premise that viewing and printing triple X porn in public libraries and public schools is inappropriate, I firmly believe that Internet filtering is the most efficient and effective solution.

Library administrators who prohibit porn surfing often claim that their acceptable-use policies are a solution to the problem. Such a policy would certainly deter some of the porn surfers at the Chicago Public Library, but I have become increasingly convinced that these policies are not adequate.

On April 6th, 2001, in a local Pennsylvania paper, the Lancaster New Era, in the newspaper they clearly illustrated the inadequacy of these acceptable-use policies at their local libraries. The newspaper stated, "the rule is clear, you are not allowed to use the Internet in any of Lancaster County's public libraries to look at porn. To do so is offensive, an abuse of privileges, an inappropriate use of taxpayer money." But it's happening. Strict policies and threats of having their computer privileges stripped are

failing to stop a small number of library members from scouring the Internet for X-rated material, the New Era found. An analysis of computer files at twelve libraries discovered traces of pornography at eight.

Similarly, staff at the Minneapolis Public Library report that even though conditions improved once the administration was pressured to adopt an acceptable-use policy, they still have patrons who attempt to break the rules and surf for porn. In fact, just in March they had a child pornography bust at that library.

Another drawback of tap-on-the-shoulder policies are that they are inherently much more intrusive and subjective than filters, because they imply that library staff are watching what patrons are viewing on the computers, all the while making inconsistent individual judgments about site content. Even the ACLU agrees on this point.

I also want to mention that the Chicago City Counsel Education Committee recently held a hearing. They had put forth a resolution to require Internet filters on all Chicago public schools. Some have done it already on their accord,

but they are putting forth a resolution to require it, because they had representatives from the Chicago public school stating that the acceptable-use policies simply weren't working.

And now regarding the arguments against filtering and other forms of restricting access to porn, I discussed many of these things in detail in my written testimony. I only want to touch on one today, and that is the First Amendment.

Along with the hierarchy of the American Library Association which is headquartered in Chicago, and the America Civil Liberties Union, the Chicago Public Library administration believes that library patrons have a First Amendment right to view virtually anything on the Internet, including hard-core porn.

Lofty sentiments about the U.S. Constitution and civil liberties are dramatically professed in order to rationalize that which seems clearly indefensible to the majority of politicians and the public at large. Could the authors of the Constitution have envisioned young children accessing or being exposed unintentionally to triple X porn, male patrons surfing for triple X porn for hours on end, female patrons leaving in disgust,

library staff being told this is part of their job as I have been told, or patrons accessing child porn, all in the name of intellectual freedom and an absolutist view of the First Amendment? I think not.

The plain truth remains that public libraries have never been in the business of providing triple X pornography in print, not to mention illegal obscenity and child porn. The argument that libraries must provide it now simply because it is available via the Internet is absurd.

The Internet policy of the Santa Cruz Public Library sums this idea up well by stating in their policy, "while protected by the First Amendment to the U. S. Constitution, sexually graphic Internet sites are best suited for private viewing. The library is a public space."

In conclusion, I want to say that as a librarian, I am concerned about what the open access to pornography means to the future of public libraries. Must we now add X-rated bookstore to our list of services? Is that what the public library has now become? Think about that and what that says about the library as a public institution.

Regardless of what most people think

of pornography on a personal or philosophical level, I believe that many Americans would agree that viewing and printing it in a public library building or school is at best highly inappropriate and at worst a violation of a number of State and Federal laws.

While some libraries have acted responsibly and at the very least have installed filters in children's rooms and attempted to enforce acceptable-use policies for adults, many have not.

In a speech discussing the urgent need for the Federal Children's Internet Protection Act, Senator John McCain stated the following:

"What is happening in schools and libraries all over America in many cases is an unacceptable situation." Unfortunately, the Senator is absolutely correct. While the hierarchy of the ALA and some others in the library profession will try to marginalize outspoken people like myself as right-wing extremists, I am proud to say that I have always considered myself a liberal. And in the end, supporting Pennsylvania House Bill 10 and similar legislation is not a matter of left or right, liberal or conservative. It is a matter of common sense.

I hope that my testimony has highlighted the seriousness of the issue, the compelling need for such legislation and will encourage others in the library profession to speak out. The time to act is now.

Thank you.

CHAIRMAN MAITLAND: Thank you very much for that testimony, Ms. Morgan. I know you came a long way to deliver it. It's obviously very heartfelt on your part.

Are there any questions? Representative Josephs? Representative Egolf?

REPRESENTATIVE EGOLF: No questions. I thank you very much for that absolutely outstanding testimony. Unfortunately, I know you skipped a lot in here because of time constraints, but it's in here and we have it. And I hope it's read by many. There are many good examples or bad examples, I guess, of what's happening out there.

So thank you very much for coming. I know we are way over time, so I won't ask any questions. Thank you.

MS. MORGAN: Thank you.

CHAIRMAN MAITLAND: Thank you very much.

Next I would like to invite Tricia Wilt, Perry County resident.

REPRESENTATIVE EGOLF: May I just mention before she starts that we just had Laura Morgan from the largest library system in the country. And some people say, well, they may have problems in Chicago, but it doesn't happen out here in interlands. This is an example that it can happen, it does happen here in Pennsylvania, and it can happen in the very smallest libraries. Thank you.

MS. WILT: Three years ago my two young children and I made our weekly trip to the Newport Public Library. My children love to wonder around the library, browsing through books and looking at videos.

My daughter asked me to help her find a Little House on the Prairie book in the children's section. I was searching for the book, and I happened to look up, and facing me was a computer screen with an outrageous sexually explicit picture. It was devastating for me to see such a thing, but my biggest concern at that moment were my children.

I immediately informed the librarian, and she approached the man who was using the

computer and told him not to use it for that purpose. I was shocked at that time to find that the library did not use any type of filtering devices. I did not return to the library for an entire year because of that horrifying experience.

My children kept asking me why we could not go anymore and I felt sorry for them, but I could not bring myself to go back.

A year later, I finally decided to return. I picked up my daughter from school and when we arrived at the library, there were many junior high aged boys using the computers. Sure enough, they had a sexually explicit picture on the screen. I decided it was time to do something about this.

So my husband and I set up a meeting with the head librarian and told her of my experiences. We told her something needs to be done about this. And she said that the board decided not to make any changes regarding pornography on the Internet.

We then had a meeting with the chairman of the library board and expressed concern. They did agree to put a privacy screen on one computer and filter another computer but leaving the

rest as they were. These changes are simply not acceptable. We need to make the library safe for families.

I have spoke to many parents who were completely unaware and shocked that there are no filtering devices in the libraries. And, in fact, yesterday I ran into a lady I was talking about today, she said that just recently she and her daughter and her husband were at the library, the same library, and they saw a 10-to-12-year-old boy flipping through pages of pornography. And when they did tell the librarian, she said that there is simply no way that she can possibly monitor everybody's computer usage, which is true.

I just finished reading a book called Every Man's Battle by Arterburn and Stoeker. Inside the pages of this book, I read story after story about how pornography completely destroyed the lives, the families, the jobs, relationships and marriages of every day men.

We simply cannot risk reading a story about one of our precious children who came addicted to pornography, especially in a place where parents assume would and should be a safe place to allow their teenagers to go after school to study.

When I was about 13, a man exposed himself to me in a department store. When this happened, I felt so dirty and violated. And, once again, in a library of all places I have been victimized by being subject to view something very repulsive without my consent.

I think we would all agree that what that man did to me when I was 13 was totally unacceptable, and that type of act would not be tolerated. Then how can anyone say that what took place in the library that day while children were present is something to be tolerated.

Libraries must make every effort to assure that when a child, a teen or an adult enters their facility, they will not unwittingly be exposed to pornography.

CHAIRMAN MAITLAND: Thank very much for your testimony.

Are there any questions? Representative Josephs.

REPRESENTATIVE JOSEPHS: Just to say thank you. Because I think your testimony was probably not so easy for you to give, and I appreciate it.

MS. WILT: You're welcome.

CHAIRMAN MAITLAND: Thank you very much.

Next I invite Mr. Robert Frieden, Professor of Telecommunications at the Pennsylvania State University. Professor.

MR. FRIEDEN: Thank you for according me this opportunity to testify on House Bill 10, the Child Internet Protection Act.

I serve at Professor of Telecommunications at Penn State University where I teach courses on communications and Internet law, economics and policy. However, this testimony in no way represents an official position of Penn State University, nor do I appear before this Task Force as a representative of the university.

I appreciate the invitation to examine House Bill 10 and to provide the Task Force with some insights on the strengths and weaknesses of the bill and, additionally, as to whether in my opinion it will pass muster with a review in court.

I have some experience in issues presented by the bill, having written several scholarly articles on Internet legal and regulatory issues. And additionally, I devised and taught an Internet law course at the Dickinson School of Law.

Additionally, I am a member of several law bars, including the Commonwealth of Pennsylvania and the Supreme Court of the United States.

In a nutshell, while I do not agree with the libertarian notion that government has business whatsoever interfering with the Internet, I am, however, leery of government-mandated access restrictions. The bill responds to a legitimate and compelling need for legislative protection in an Internet-based environment, like that majority applies to obscenity and material unsuitable for children in the so-called bricks and mortar world.

But if the legislation is to pass muster with review in courts, it must narrowly tailor Internet access restrictions and avoid interfering with the lawful rights of adults to access material that would be inappropriate for children.

I have some reservations about the need for mandatory software filtering, the effectiveness of this technology, and whether a reviewing court would uphold the installation of filters, even when adults access the Internet at public schools and public libraries.

I believe it would assist the Task

Force if I identify two potential areas in the bill that present some potential risk of litigation.

First, while no Pennsylvania cases specifically address the permissible scope of restricted Internet access in public schools and public libraries, a body of cases elsewhere suggest that courts will closely scrutinize the extent to which some restrictions designed to safeguard impose burdens and limitations on adults.

A so-called harmful to minors standard applied to any Internet user, adult or child as the bill requires, has the potential to be construed as overbroad, overinclusive and vague.

Second, reliance on software filtering has the very real potential for being both overinclusive and underinclusive. And by that I mean the software may filter out permissible sites dealing with public health, and also underinclusive in that it might let things slip through.

I am not keen on deferring to the judgment of software engineers as to what kind of worldwide web site might prove harmful to children. Because commercial software vendors typically do not disclose the type and nature of content filtering, users have little, if any, sense how these programs

work and their effectiveness at blocking only harmful or improper content. Indeed, I wonder if my testimony here might be blocked by the less sophisticated filtering software.

And I should add that these very types of software indeed are still in use. I readily acknowledge that some of the more sophisticated software as represented in testimony previously might not present such a problem. But prior versions, less sophisticated versions, I submit might indeed block out this testimony, because words sexuality and pornography appear, as do XXX in a row, a reference to the Roman numerals used to represent the 30th professional football championship game, commonly referred to as Super Bowl XXX.

Here are the main points of the written testimony that I've presented. The Internet reflects the best and worst aspects of society. On the positive side, it provides extraordinary opportunities to access news, information, data and entertainment. It certainly makes my job as an academic, as a sometimes practicing attorney, effective even in rural Pennsylvania.

But on the negative side, it has the

potential to threaten the welfare of children, to violate privacy interest and to facilitate criminal and harmful conduct. Having just said those two things, I hope you appreciate the ambivalence I have in presenting this testimony because I'm terribly torn.

Using the Internet as a medium for communications and commerce does not by itself change the nature of the transaction. I agree with that which was presented previously in the sense that if a transaction were to trigger administrative scrutiny in the physical world, the so-called bricks and mortar world, then an Internet mediated transaction would trigger the need for similar scrutiny.

So going to instances of pornography in the library, I think that if we had a physical manifestation of that pornography in a library, some policy applicable to that kind of content, would limit, if not restrict, access or prohibit such access. I submit that those are legitimate time, place and manner restrictions and it doesn't interfere with the First Amendment.

Additionally, the Legislature has a legitimate and compelling interest in safeguarding

children and has legislative safeguards applicable to transactions in the physical world. For example, prohibited access to alcohol until age 21. If the Legislature can limit transactions in the physical world, so too can it enact laws to safeguard children in the virtual world of cyberspace, when the Internet provides a medium for communications and commerce.

However -- and there always is a however here -- legislation designed to safeguard children in either the physical or the Internet mediated world must not be vague and must be narrowly tailored to achieve a compelling State interest. Careful drafting is necessary to insure that legislation does not impede the equally legitimate interest of adults to engage in lawful conduct that would be inappropriate for children.

On the matter of the scope of the First Amendment protection, few would dispute that a child's rights can deviate from an adult's, particularly when the child is located in a public school or a public library. On the other hand, adults have a qualified right to access nonobscene content. Accordingly, time, place and manner restrictions and even prohibitions lawfully placed

on children regarding such content must not excessively burden the legitimate right of adults to access nonobscene material available via the Internet.

Legislation designed to safeguard children regarding their access to the Internet must be narrowly drawn to past judicial scrutiny. A harmful to minors standards runs the risk of being overbroad and vague, particularly in light of the reliance of the software-based filtering, which can be overinclusive and underinclusive.

While House Bill 10 would guard against children's access to harmful content like pornography, the use of software filtering has the potential to block nonobscene worldwide web sites addressing such issues as human sexuality and public health. I think there have been a number of anecdotes represented previously by other people before you.

An absolute prohibition on public library access to material harmful to minors might be construed by a court as excessively burdening adult access to nonobscene material, which while inappropriate and possibly harmful to minors, nevertheless is constitutionally permissible and

protected by the First Amendment.

I might mention going to the issue of pornography, I don't think that, particularly in a public forum like a library, there is an absolute First Amendment right to access pornography even by adults and certainly nonfiltering library policy, acceptable-use policy, that could occur and exist in a physical world would apply to that sort of situation, although that does make librarians in a sense police. I can recognize that that is an additional burden not initially in their job description.

Lastly by way of suggestion, I believe the Committee might consider expanding the unblocking provision contained in Section 9 to provide generally for unfiltered Internet access by adults. This would maintain the vital safeguards appropriate for children, while eliminating the application of software filtering to computers accessed by adults.

I would be pleased to answer any questions by the Committee. Thank you very much.

Are there any questions? Representative Josephs.

REPRESENTATIVE JOSEPHS: Thank you,

Mr. Chairman.

I kind of lost sight of the fact that we are not really here talking about illegal child pornography or illegal obscenity, because they're illegal. Now so we are talking about something that is a different standard, that is not illegal in this country, but we think it is inappropriate.

Going back to some of the anecdotes that were cited by the people who are selling these filters, or perhaps only one of them, in response to my question of sites that keep opening up and you can't escape from them, that shut your machine down if such a thing is possible. If those images or words, spoken or written, met the test for what is illegal material in this country, would the library operator have no other recourse than installing filters? Is there not some criminal prosecution that could be asked from the local authorities?

MR. FRIEDEN: That's a very good question. I think, first of all, we should acknowledge that libraries have use policies, acceptable-use policies, that predate the Internet. And when there is content, be it written or in a magazine or what not, that is inappropriate for children or should be partitioned and available only

to adults, we've had those kinds of policies. I'm not suggesting we burn books.

But, on the other hand, software filters can be analogized to burning books in the sense that it's just extinguished. It's taken right off the list.

REPRESENTATIVE JOSEPHS: If for some reason a branch has repeated problems with -- let's go to any kind of obscene, somebody standing in front of the school and handing out something which meets the standard for being illegal obscenity or child pornography, somebody calls the local law enforcement folks, and that person gets removed from that site, I assume.

MR. FRIEDEN: You bet.

REPRESENTATIVE JOSEPHS: If the same kind of thing comes into the school or public library through the Internet, don't we have the same recourse?

MR. FRIEDEN: Absolutely. We have, in a sense, a community-based standard for what constitutes indecency and obscenity. Indecency might be acceptable, obscenity isn't. But it's the community that decides.

If there's a web site based in Seattle

and it's viewed in Lancaster, the Lancaster standard applies. So in terms of the purveyor, they're running the risk of violating the community standard. Similarly, as to the Internet scholars and perpetual frequent users, I think a library policy in terms of a time, place and manner type restriction within the restrictions of the First Amendment kicks those people out. You play police. It is a job that maybe librarians didn't want to assume, didn't think they had to assume, but if somebody is a perpetual pornography viewer, out he or she goes from the library. It's as simple as that.

REPRESENTATIVE JOSEPHS: But if that person is viewing pornography which meets the standard -- I agree. And I also don't think that libraries should not have acceptable-use policies. I think they should. I agree. Families should have acceptable-use policies.

MR. FRIEDEN: I should mention that I do and I use filters at home.

REPRESENTATIVE JOSEPHS: My children do. I do not use filters at home which is why we have local control.

MR. FRIEDEN: Right.

REPRESENTATIVE JOSEPHS: But if somebody is sitting in front of a screen and is viewing something that meets the standard for obscenity, don't you have a legal action not only against the site -- and I don't want to say another city -- in another remote place that people who have published that site and keep updating it, and a legal remedy perhaps against the person who is sitting in -- aside from saying out of here?

MR. FRIEDEN: I'm very intrigued by the brazenness or anecdotes of the brazenness of users. I consulted with two librarians in State College where I live and the computers -- admittedly, it's a small library, but the computers are approximate to the circulation desk, and you have to be pretty brazen to try to access a site like that. That's the first point practically speaking.

The second point is that I think there is a separate First Amendment protection in the privacy of one's home as opposed to in a public place.

REPRESENTATIVE JOSEPHS: I agree.

MR. FRIEDEN: And insofar as something that might be past the obscenity standard in the

privacy of one's home, it might not meet a community standard in a public place.

REPRESENTATIVE JOSEPHS: I have no problem with that at all. Thank you. Thank you, Mr. Chairman.

CHAIRMAN MAITLAND: Representative Egolf.

REPRESENTATIVE EGOLF: Just quickly I guess, are you saying then that the libraries take care of these problems of the illegal obscenity and child pornography and there's not a problem then or what?

MR. FRIEDEN: No, sir, I didn't mean to imply that. I think that harm can be done, and I readily acknowledge that sometimes you can't undo the harm. But, on the other hand, the perpetrators of the harm can be brought to justice, either the purveyors of the material or the recipients, procurers of the materials. And that's where a legal standard and acceptable-use policy applies.

REPRESENTATIVE EGOLF: But, see, I think the problem that we brought out today is that they are not doing that in the libraries. In other words, it's coming in and you are saying they could be charged with illegal activity of accessing and so

on. But they're not doing it. Our idea is that the filters would do that, plus along with their other policies. Maybe I just misunderstood what you were saying.

MR. FRIEDEN: I mean, just on the issue of filtering. I recognize this is a terrible difficult issues and I'm ambivalent. And I've already acknowledged that I use filtering at home. And I use very aggressive active monitoring of content by my two children. But I just don't feel comfortable relying on software engineers and on algorithms and on programs, the likes of which and the effectiveness of which I don't really fully understand.

I readily acknowledge that maybe my testimony on the XXX might not be blocked by some, but I also assert that it would be blocked by others.

REPRESENTATIVE EGOLF: Thank you.

CHAIRMAN MAITLAND: Professor, I have a question. Would you say then -- suppose I'm at the library and I get into something that's Seattle based that I think is illegal, that I could go down to the Magistrate's Office and file a private criminal complaint against that Seattle-based

company?

MR. FRIEDEN: There is a law case. It wasn't Seattle. Actually it was in the San Francisco area where content was downloaded in Memphis, and a Memphis standard applied. It was a bulletin board. And the purveyors, the Thomases, the purveyors of that site, and it was something that you had -- commercial site you had to use a credit card but was accessible, were brought to Memphis and prosecuted under Memphis community standards. And they're doing two to ten in the big house.

CHAIRMAN MAITLAND: That's interesting. Thank you very much, Professor, for your testimony.

MR. FRIEDEN: Thank you.

CHAIRMAN MAITLAND: Next we'll invite another Professor of Law, Gary Gilden, from Dickinson of Law. Professor Gilden.

MR. GILDEN: Thank you for having me. I am a professor at the Dickinson School of Law. But as with the previous speaker, I am not here to express the views of the institution. In fact, I'm here on behalf of the Civil Liberties Union of Pennsylvania to give our take on House Bill 10.

I would also note parenthetically I am a parent of three children who have been raised in Pennsylvania in public schools using the public libraries as well.

Both personally and on behalf of the ACLU, we log the goal of House Bill 10 certainly as constitutionally permissible to protect children from exposure to obscenity, to protect children from exposure to pornography.

The problem with House Bill 10, however, is that the means used to achieve this end is too blunt, because it sensors information that is neither obscene nor pornographic and thereby violates the free speech provisions of the First Amendment to the United States Constitution and the Pennsylvania Constitution.

And the problem arises because of the filtering that this legislation mandates for public schools and for public libraries. Now, certainly in a technologically perfect world, there would be no constitutional problem. If there were filters that screened only pornography, only obscenity, we would not be here talking about this particular constitutional issue.

However, we don't live in that

technologically perfect world. I know at the outset of the hearing, Representative Josephs asked about if there was any sort of neutral expert who would be here testifying. I don't think we've heard from that neutral expert yet.

I will only refer the Committee to one source, and that is the report of the Federal Commission on the on-line Protection Act, which was a commission designed to ferret out what was the state of the technology in consultation with the Federal analog to this particular act.

I took a look at the report of that commission on its web site which is cited in my material. That commission concluded that because of its potential to be overinclusive in blocking content; that is, because it blocked things that were not obscene and were not pornographic, that the filters used in libraries and schools raised significant concerns about First Amendment values.

Again, this was not a Civil Liberties Organization. That was a neutral commission designed to ferret out what is the state of that particular technology.

Some of the overinclusiveness came because of blocking by word. We've heard a lot of

debate as to whether somehow the technology has changed so some of that blocking is not happening.

But interestingly enough, what we haven't heard anything about is the more serious issue of whether the editors of this software and these filters were making content choice based upon their very own value judgment.

In fact, there's incidents of blocking of sites hosted by the American Family Association, the Religious Society of Friends, the on-line magazine the Magical Spectacle, not because of three Xs appearing or the words S-E-X appearing consecutively, but because the editors of the software or the filtering systems had made some personal value judgments as to whether this was appropriate material to pass through to children.

Now, we have heard some denigration of the Consumer Report as being inadequate in its sampling. But let me just talk about one other observation about the Consumer Report that was not contested. And that is that the Consumer Reports found more troubling, and I quote, that the designers of filters blocked legitimate sites based upon moral or political value adjustments.

And, again, there were citations to

examples of the Citizens Committee For The Right To Keep And Bear Arms site being blocked, the Southern Poverty Law Center sit being blocked, which is a nonprofit antidiscrimination law center. And I believe as Representative Josephs dialogue with one of the previous speakers brought out, they are not willing for proprietary reasons to disclose what is the system by which they are making the -- not the screening function by three Xs or context, but what are the individual choices that these private companies are making as to what they are going to preclude.

Given this situation, we have to take a look at the constitutional analysis. I suppose the first question that ought to be asked is, well, what does the First Amendment have to do with Internet access? Isn't the First Amendment about free speech? And here we are not talking about children speaking or library patrons speaking.

But it is well settled that the First Amendment of the United States Constitution is not merely a guarantee of the right to speak, but also the freedom to receive speech, because the First Amendment is about the free exchange of communication in the marketplace of ideas. And I've

cited in the written report the cases that's stand for that particular proposition.

What House Bill 10 proposes to do through its mandated filtering is to regulate the content of speech that is going to be received. And when government proposes to regulate the content of speech that is to be received, it triggers from the court's perspective the highest level of scrutiny by the courts and, in turn, the highest burden of proof on government.

And that same standard is going to apply to this legislation, one, because of the nature of the forum, the library; and, secondly, because of the nature of the medium it proposes to restrict, the Internet.

I've cited in my written testimony the clear case law that sets forth that public libraries are what the law calls limited public fora for expressive activities. And because they are what is known as a limited public forum -- again, one of these cases comes out of the United States Court of Appeals of the Third Circuit which controls in Pennsylvania -- that we are going to trigger what I'll explain in a moment as strict scrutiny, because government is proposing to limit information that is

going to be transmitted in this limited public forum.

Interestly enough, the same standard is triggered by virtue of the fact that this legislation tries to regulate the Internet. The United States Supreme Court in Reno versus American Civil Liberties Union had a chance in the first real take from the Supreme Court on this new medium, to label this, as Justice Stevens noted, comparable from the reader's viewpoint to a vast library, including millions of readily available and indexed publications.

So just as House Bill 10 attempts to regulate libraries directly, its regulation and censorship of the Internet is a regulation of what the Supreme Court has declared to be a library. And in those circumstances -- and this is not advocacy, this is simply reporting the law -- the strict scrutiny would three questions to be asked and answered.

First, the Government would have to prove that it has a compelling interest. And, secondly, the government would have to prove that this particular restriction is necessary to further those compelling interests. And -- and I stress the

word and these are not or -- the government would have to prove that this legislation was narrowly tailored to achieve that compelling interest.

And this standard comes right out of the United States Supreme Court case law. This is nothing that is unclear or in dispute. And what I want to do is to simply walk you through this particular test.

I know one of the previous speakers talked about that this was a theoretic discussion about whether there should be free access to information and free access to pornography. For present purposes, that debate is really not at issue, because we can accept that the government's interest here is compelling. That as to the first prong of that test, I think the case law would well support that protecting minors from obscenity, protecting minors from child pornography, would satisfy the compelling interest test. But that, again, is only one of three things the government would have to prove.

The second thing that the government would have to prove to sustain the constitutionality of this legislation is that this filtering is necessary to satisfy that interest. I don't want to

tarry to much on that particular prong, because I think the answer lies readily under the less restrictive alternatives prong.

But let me just note parenthetically there has been one case, one Federal case, on the constitutionality of filtering. It's the Main Stream Louden case out of the Louden County Library, which is where the library board itself chose to mandate filtering. And patrons of that library brought a lawsuit claiming that the library's decision to mandate filtering not legislatively imposed violated the First Amendment right of patrons of access to information.

And the District Court in Virginia applied this three-prong test -- and even before getting to what I want to be the thrust of my remarks, although less restrictive alternatives -- but the court found that the government had not satisfied the necessity prong.

Under the precedence, it's not enough to hypothesize that perhaps there could be a problem for which censorship would provide some benefit, that because you are trying to restrict fundamental speech, you'd have to prove actually that there was a problem here to be addressed.

And interestingly enough, the evidence turned out to be as offered in that case that there was a single complaint in Virginia. And the Defendant's expert who is named David Burt -- I'm not sure whether it is the same Mr. Burt who testified earlier today -- only came up with three isolated incidents across the country where this was a problem in libraries.

We certainly have heard some testimony here today that this does not present a problem. Again, I don't think for purposes of my testimony we need to resolve whether or not there's a problem or not. It's enough to say that were this tested in the courts from a constitutional perspective. If there was not an establishment that there was, in fact, a problem, that alone would topple the legislation on constitutional grounds.

But even if we assume that the court accepted a compelling interest, and even if we assume that there was some necessity, that is there was a problem there to be addressed, the government would still have to prove that this was the least restrictive alternative to satisfying that particular problem.

And I've cited in the materials, the

case law whereby the courts have applied that least restrictive alternative test, because when you're trying to regulate constitutionally protected speech -- and that's where the overinclusiveness problem comes in -- we know that these filters do not screen only pornography and obscenity, but whether because of the screening technology or the value choices, they are screening constitutionally protected speech, it's going to be the burden on government to proof that this is the least restrictive means of doing this, not whether we'd prefer that this is done this way, not whether we like this as opposed to other options which has been much of the testimony that's been here today.

There's been great debate as to whether people prefer system A to system B, but we are going to have to establish that this is the least restrictive alternative.

I think the testimony of people far more knowledgeable than I over the course of this morning and early afternoon have talked about alternatives. Again, in the one case where this has been litigated, the Louden Court found that, in fact, there were less restrictive alternatives to achieve these ends.

And, therefore, it is our position that applying the plain precedence that House Bill 10 by mandating filtering, where there are other less restrictive alternatives, is unconstitutional.

Let me just add a practical note or maybe a prudential note as to why this Committee and the Legislature should not be quick to rush into this particular methodology or this particular legislation. We know that on December 21st of 2000, President Clinton signed into law the Children's Internet Protection Act.

One of our previous speakers, I think, from the School Board Association talked about how that mandated filtering and that the Pennsylvania schools were in the process of doing that. What hasn't been noted is that a lawsuit was filed by a coalition of libraries, adult library patrons, juvenile library patrons and web publishers, alleging that the requirement of filtering in that Federal Act was unconstitutional.

That case by my most recent information is expected to be set for trial in December of 2001. I think that that case raises the very constitutional questions that I've been talking about here today. And, certainly, it would seem

that before the Legislature would waste its time and taxpayer dollars and maybe school district dollars and library dollars that have been talked about of pushing forward, that perhaps we should be a little more careful. Because if that's declared unconstitutional in the interim, this particular legislation will not stand.

One last constitutional -- I don't know if it's a side issue. I characterize it as a side issue. But in the legislation, there's this procedure by which a patron who believes that the filtering system has prevented her from accessing constitutionally permissible information and the library has said, well, no, we don't agree with that, that there's an appeal procedure that requires the library patron to file a lawsuit in the Court of Common Pleas. And somehow the court is to hold a hearing within three business days and issue its final decree within 24 hours.

There are both policy and constitutional problems with that. From a policy perspective, the proposal places a cost on a library patron to procure counsel or else figure out the legal system. It places a cost on the library to defend this, and it places a cost on an already

overburdened judicial system to somehow hold hearings within three days and within another 24 hours issue a decision every time a library patron complains about filtering.

But equally importantly, this particular notion of the patron seeking review is contrary to well established legal precedent that requires the entity doing the censoring to initiate a judicial proceeding if it wishes to sustain that censoring, and we cited to the Freeman case.

House Bill 10 in short in our view is subject to constitutional attack, but let me just add one last policy statement that really hasn't been discussed. And that is, not only is this legislation in our view deficient on constitutional grounds, but it's our opinion that the net effect is going to be widening the digital divide between the haves and the have nots.

Those people with Internet access in the home are going to be able to access the information that is not constitutionally proscribed, but which is nonetheless filtered by the public system.

Those people who don't have Internet access at home, the have nots in society, persons of

low income, minorities, less educated, children of single parent households, rural areas, may not have reliable Internet access, are going to be disadvantaged in the marketplace of ideas and in their schools by their inability to do so.

Thank you for giving us the opportunity to testify, and I'd be happy to attempt to answer any questions.

CHAIRMAN MAITLAND: Thank you, Professor. Representative Josephs.

REPRESENTATIVE JOSEPHS: Thank you. Thank you, Professor.

I just wondered I guess whether you agree with the previous speaker that if constitutionally impermissible speech shows up in a library via the Internet that there are other legal remedies to take care of that situation.

MR. GILDEN: Some but not all that you might imagine. The Federal Congress tried to do this with the Communication Decency Act, where they try to have a blanket proscription that said if you actually as a provider put on the Internet information that would be obscene, that you would be responsible.

The United States Supreme Court struck

that down applying the very standards I talked about here today, because given the local standards for obscenity, you would be actually punishing people for information that may not be obscene in community A, but community B.

Problem No. 2, with the definition of those terms, it was overbroad and, just as this legislation does, has the potential to punish constitutionally protected information. So trying to go attack this through the vehicle of reaching any Internet provider I think has already been declared to be unconstitutional. Whether there's some lesser, more targeted means that might be available, we'd have to explore those on an individual basis.

But certainly the United States Supreme Court has already struck down the blanket approach of saying that if I'm sitting in Seattle, I'm potentially liable in Carlisle, Pennsylvania under some circumstances.

But other more targeted means may well be viable. And, again, I think the courts ultimately are going to apply the least restrictive alternative test and the sort of sweeping things, such as this legislation, are not going to be

accepted as the solution.

REPRESENTATIVE JOSEPHS: Thank you. I kind of thought that was the case. Thank you.

CHAIRMAN MAITLAND: Representative Egolf.

REPRESENTATIVE EGOLF: Thank you for the testimony. I just have one comment. You mentioned about the locking filter to block the different sites based on moral or political value judgments. This bill isn't mandating a particular filter. So, in fact, it will be a list of filters that meet the objectives of this. And I would think that those types of filters that would be chosen by the Attorney General's Office and the Secretary of Education will be looking for filters to do what the department can do.

So the market is going to I think play in there and they're going to give a list of the filters that do the job and not include the other ones. So I think -- I don't know if you are sort of implying, I think, there that they might be required to use a filter based on moral or political value judgments. And I don't know that that's --

MR. GILDEN: Again, our position and everything that's been published on this suggests

that there is not a filter that restricts itself to the constitutionally proscribed categories.

And there's an interesting question as to whether the Attorney General or Secretary of Education will ever be able to find out from the filtering companies precisely what it is they are filtering, because they want to protect their product. And if I somehow produce to you, here's what we're filtering, there's nothing that prevents Company B from saying, well, great, you did all that research and start-up, I'll just piggyback on it and adopt it.

So the experience has been that the companies are not going to tell you. And I think we saw this here today. They are willing to give you the categories that they're using, but not how those sites were arrived at.

REPRESENTATIVE EGOLF: I think I would disagree, because I think the company would want to sell their product. They are going to try to market it, so they are certainly going to tell what they can. Obviously, everybody has some proprietary things in their business, whatever it may be.

MR. GILDEN: With all due respect, all I can tell you is that the Federal Commission, with

the same motives as you did, disagreed with that conclusion based upon their investigation.

REPRESENTATIVE EGOLF: Thank you.

MR. GILDEN: And Consumer Reports, notwithstanding the debate about its sampling, reached the same conclusion after its inquiry and I can't tell you that I've done any independent research. I'm just trying to share with you what was requested earlier, is there any data from neutral providers on that. And that seems to be the state of the science and the state of the art.

CHAIRMAN MAITLAND: Professor, does it matter in your constitutional argument that over time a facility like a public library or school library can unblock sites through the software and block additional sites that maybe the software should have gotten but didn't? I mean, that is not as restrictive as never being able to go in and adjust one way or the other what the software does block.

MR. GILDEN: I guess the short answer is I'm not sure that's what this legislation accomplishes. I'm not sure the practical implementation of what you're theorizing does what you say it will. And, third, you then get a whole

new issue of the librarians now trying to apply standards of constitutionality, which cause all different problems. So, again, I think we can theorize a perfect world where we can do this. But the reality unfortunately is not there.

CHAIRMAN MAITLAND: Another question I have is clearly there is material out there that is constitutionally protected but might be offensive to people. And we heard from librarians and private citizens that they feel violated by viewing some of this constitutionally protected material in the public library.

And I have from the Internet, foxnews.com, a report that the Equal Employment Opportunity Commission in Minnesota has ruled that the city central library may be creating a hostile working environment for librarians by allowing patrons to download materials from the Internet without restriction.

So here, on the one hand, you have First Amendment right of an adult taxpayer to go into a library and access this information. Over on this hand, you have the violation of the right of the patrons and the employees in the facility not to be violated by being forced to view this material or

the behavior of the individuals viewing it.

So where is this clash going to be reconciled?

MR. GILDEN: I think that's a wonderful question. Actually, that was one of the issues that was before the District Court in Louden. One of the government interests there was protecting against the hostile work environment. Apart from the fact that the court found there was no evidence of that, even if we assume that there was, they went on to say that there were less restrictive alternatives. And they cited to the privacy screens, which allowed the user to access the information, but the passerby and the librarian didn't have to do so.

Again, if you just follow the analysis, they said we don't have to censor the speech, because there are less restrictive ways where we could preserve the speech as well as preserve the rights of the patron in the library not to be subjected to this material.

And I think you've heard from the librarians about that. That's the way that plays out. It's not a matter of choosing one or the other, that you have to subject the librarian to the

hostile work environmental in order to preserve the First Amendment rights of the patrons.

And if they were no less restrictive alternatives, the Court might find that protecting the employee from that hostility would be a compelling interest that there was a problem and no alternatives. If that were true, that perhaps that legislation -- that restriction would be upheld. But the Court in Louden said there are other ways apart from censoring the speech that we don't have to sacrifice either individual's rights.

And that's how the Court will go about asking that question. Again, I defer to the librarians who testified who seemed to have offered some responses to that.

CHAIRMAN MAITLAND: Representative Josephs has another question.

REPRESENTATIVE JOSEPHS: Thank you. Not so much a question, but I've not only read the filtering companies filtering things on philosophical and political means, but they filter sites that tell you how to unblock filters. And I would be very interested, since we have representatives, I don't know, at least from one company, maybe two companies still here, to pick a

day in the recent past, because I know these things change every minute, and just send us a list of the sites that they block.

And any of their other members of the Internet Safety Committee who want to do that, I would like to see that happen. And I'll start the clock going now. It's 1:26 and it's the 7th of June. I think it's a proprietary interest. I think it's to be protected that way. And people act that way when they are in business. And from their point of view, they ought to, I think. Thank you.

CHAIRMAN MAITLAND: Representative Egolf.

REPRESENTATIVE EGOLF: I would like to now bring up another question to you. I'm not an attorney so see what your opinion would be on this. In adult bookstores, the Supreme Court I understand has upheld the zoning that they can't be near schools or in residential areas and so on because of the adverse secondary effects. Is that correct?

Why wouldn't that also stand up then in saying in a library, you said about least restrictive, if you put screens or have a separate room for adults to view pornography and so on over the Internet, why wouldn't that also cause adverse

secondary effects and couldn't that be restricted under the same law and decision that allows you to restrict adult bookstores in neighborhoods?

MR. GILDEN: I think the short answer is there's a difference in the standard that's applied when you're completely banning the speech versus regulating circumstances under which it may be accessed. In other words, there's a difference in reasonable time, place and manner restrictions which the previous speaker talked about that could be acceptable.

In other words, if you would say there's a limit to the amount of time at which you can be on the Internet period because that was a reasonable time, place and manner, as opposed to what we are saying here in House Bill 10, speech will not be permitted period, which is a regulation on the content basis.

So there may be different ways where you are not actually regulating based on content or proscribing material that would undergo a different constitutional analysis there. And a lot of limitations on adult bookstores are not on that were proscribing the existence of the bookstore or the conveying of that information. But the restrictions

are being restrictions, not censorship, are being approved under a reasonable time, place and manner approach.

REPRESENTATIVE EGOLF: Even in the library, we are not restricting them completely. Because you can tell the librarian that you have research to do and you can have it unblocked.

MR. GILDEN: Again, the way the Court has in Louden, and we suggest would, analyze this would be under a content-based regulation which triggers the higher standard.

REPRESENTATIVE EGOLF: I guess one comment. I don't expect an answer on this. But we have medications that have side effects. I know you made comments that there may not be perfectly effective ways of blocking and we know that. Nothing is perfect, nothing is 100 percent perfect.

But in the case of medications, for example, we have medications that may prevent you from dying from cancer, but there may be side effects. But we don't not use that medication because there's side effects. We go ahead and use it and we try to do something else to minimize those side effects.

It seems to me that this -- I'm just

making a comment. I think the same thing here. Maybe filters are not 100 percent perfect, but should we wait till they are and allow this disease, this disease of cancer, to invade.

MR. GILDEN:. Unfortunately or fortunately, the differences here, you have the constitution on the other side of the balance and the most fundamental of constitutional rights, that of speech. And that's the approach the Court's going to take from it, not just from a policy perspective; gee, does this seem to be a good idea or not. When you're dealing with speech, the case law is abundantly clear that the most rigorous scrutiny is going to be applied. Thank you.

CHAIRMAN MAITLAND: Counsel. Wait, Professor, one more. Counsel Cherry has a question.

MR. GILDEN: He's just looking forward to asking a former professor questions.

MR. CHERRY: Professor Gilden, you had talked about strict scrutiny standards. What is the ACLU's view as a way that House Bill 10 could meet that standard; the time, place and manner restrictions could be narrowly drafted to meet that?

MR. GILDEN: I don't want to go too far along the lines and get yelled at by our

legislative director. I will tell you that acceptable-use policies without censorship perhaps might be a better way to go, but I simply would refer you to our legislative director, Mr. Frankel, for more expertise on alternatives. I was just asked to show why this wasn't the one. As you may be familiar with, it's a good way of evading the question.

CHAIRMAN MAITLAND: Thank you very much, Professor, for your testimony today.

And our final testifier today is Thomas Shaheen, Vice President for Policy, Pennsylvania Family Institute.

MR. SHAHEEN: Thank you, Chairman and Members of the Committee. I will try to be as brief as possible, knowing the day has gone long.

I am Tom Shaheen, Vice President of the Pennsylvania Family Institute. We are a nonprofit research and education organization, founded in 1989 and based in Harrisburg. At the Family Institute, we analyze policies and social trends that affect the most basic building block of our society, the family. We work to be a voice for those who are too seldom heard in the public policy debate, the voice of families and the voice of

parents. Our membership list is approaching 30,000 families across Pennsylvania.

The Internet has revolutionized society, including how our children are educated. With its vast reach, the knowledge once contained in isolated distant locations is now accessible to millions of children at their local libraries, schools and home.

Unfortunately, the most violent, offensive and graphic forms of obscenity are also readily available, so are web sites that promote suicide and murder, bomb making and other material harmful to minors.

We support the passage of House Bill 10 which would require Pennsylvania's public school libraries that provide Internet access to minors to employee filtering technology on those computers. The problem is real in just a few examples. On April 6th of this year -- and I heard reference to this by Ms. Morgan as well. On April 6th of this year, the Lancaster New Era newspaper reported the results of a three-day investigation, just three days, three-day investigation of the electronic history computer files at 12 local libraries throughout Lancaster County.

They found that pornographic web sites were viewed at 8 of the 12 libraries. For one example, at the Ephrata Public Library, the New Era found more than 70 X-rated web sites had been visited on a single day, ranging from Electrosmut to Dirty Sweet Teens and Sex Illustrated.

To quote the paper, strict policies and threats of having their computer privileges stripped are failing to stop a small number of library members from scouring the Internet for X-rated material.

The paper also reported that, "Librarians were not surprised at the findings and admitted they have a limited ability to prevent users from accessing pornographic web sites." I will add to that children and adults alike had access to these computers, and the libraries do not use filtering.

In March of this year, the Philadelphia Inquirer reported the experience of an 11-year-old in a Monmouth, New Jersey library. Tyler Spader was surfing the Internet trying to find pictures of pro wrestlers. Instead, the boy found sex scenes. He quickly switched screens, but the pornographic image he stumbled on to was so

disturbing, it would, to quote his mother, pop back into his head for no apparent reason.

She said my son's mind was molested by cyber pornography in this library. This never should have happened, and she was speaking in support of State legislation in New Jersey to require libraries and schools to install filters.

A couple of years ago the York Daily Record reported the widespread problems that administrators in York County school districts were having with keeping students from viewing objectionable sites. Even policies telling students what is not appropriate use didn't seem to be enough. York City School Superintendent, Jack VanNewkirk, recommended Internet filtering because, "we have a whole lot of smut mongers out there."

Since then, York City and some other York County school districts and the nearby West Shore School District have installed sophisticated filtering systems.

The Philadelphia Daily News did a story on the dramatic rise in youth sex offense cases in Philadelphia's Family Court. The Joseph J. Peters Institute which runs a juvenile sex offender treatment program said, "Offenders typically come

from homes where violence and pornography are commonplace. Many have seen people engage in sex both at home and on the screen. Many are exposed to pornography at a young age.

Parents need help when they cannot be present. What are parents to do when a teacher cannot supervise all the children at their school or when librarians either cannot or will not monitor a child's Internet use. Placement of filtering technology on school library computers will ensure that parental rights to direct the child's upbringing are respected, when parents are not able to be present while their child is at the school or at the library.

Furthermore, it reinforces the teachings and values of the overwhelming majority of parents, as well as the public policies of both our State and Federal Government that found that the viewing of pornography is harmful to a child's development.

Surveys consistently show that a majority of parents strongly support Internet filtering at school. In a Safe Kids/Net Family news survey of parents and other care givers of on-line kids, 85 percent said they approve of filtering

legislation.

In a University of Pennsylvania Annenberg Center survey showed that 67 percent of parents with on-line access and 82 percent of parents without home Internet access are worried that their children will view sexually explicit images.

Filters assist public officials to enforce public policy. The placement of filters on school computers is an exercise of public school officials' duty to determine the educational suitability of all material in their schools. Similarly, public libraries have no obligation to provide unrestricted access to sexually explicit material via their tax-funded computers.

House Bill 10 is entirely consistent with the United States Supreme Court precedent and both National and State public policies.

Public schools are an environment within which access to pornography should be prohibited. There is no educational purpose for which public school students must access material harmful to minors or obscenity. Therefore, it is entirely appropriate that such material be blocked out on Internet accessible computers in public

schools.

And I'll add to that previous testimony by school librarians, constantly referred to the ability of the librarian or the duty of the librarian to choose what has an educational purpose and what is suitable. And that's exactly why this legislation is needed, because I think it is incumbent upon lawmakers in coordination with the funding they provide to also be able to determine that. And I think filtering is a tool that libraries and schools can us to do that.

My conclusion is that the Internet is a wonderful tool to modern era. And recognizing the educational revolution it has ushered in, parents are actively seeking to expose their children to the many benefits of the Internet. However, these same parents fear the dark side of the Internet and rightly so.

As the State helps introduce this technology to schools and libraries, children will be subjected to State-funded peep shows unless steps are taken to remove pornography from these computers. However, libraries and schools also play a pivotal role as the first line of defense in efforts to keep children away from this material. A

parent's diligent and watchful eye is useless once his or her child has entered the schoolyard, since parents cannot supervise the children while at school, nor is it always possible for parents to be present at libraries.

Library and school officials are in a position to use the latest technology to prevent children from accessing pornography while at school or in the library, whether through the Internet or, as they do now, through traditional print media.

For schools and libraries to refuse to bear this responsibility and use the tools at hand is an abdication of their role to assist patrons, and it can endanger the children they have pledged to teach and protect.

The implications of unblocked Internet access are particularly troublesome for those children who have Internet access only at their schools or local libraries. These children will learn to use the Internet away from the loving care of parents capable of training them to safely navigate around its dangers.

We have our strongest duty to assist these parents in their efforts to protect their children from harmful material. Otherwise, they

will be left with only one option, expressly prohibiting the children from using the Internet. Parents must be able to entrust school and library officials with the safety of their children.

House Bill 10 goes a long way toward this goal by providing parents with a tool that will assist them in their most important job, raising their children.

By respecting the desires of parents to prevent their minor children from accessing pornography, the General Assembly can provide much needed support to families in their battle against those who prey on children.

If I may just make brief references to so earlier testimony today -- I guess that's one of the advantages of going last -- Professor Frieden said that he was not comfortable with trusting filtering software or technology or those who do the surfing and decide which sites are blocked.

I can say as a parent of four children, as well as an advocate for families, as well as a Pennsylvania taxpayer, I'm not comfortable trusting either librarians or school officials who would oppose this bill or oppose filtering and not even voluntarily employ filtering, I don't trust

those officials to keep the Internet safe at my school or my library.

And just a personal note. My son was in 6th grade this year, and he was sent home a permission slip to use the computer lab. And along with that was the appropriate-use policy, Internet-use policy.

I was very delighted to see that my school district uses a filtered server. And I called the IT coordinator at my district and asked him, because I knew we were supporting this legislation. He didn't give me his support for the legislation. I didn't ask for it. What I asked for was did he have problems with it, how long did they have it, what did he think about the cost, how does he get it.

And the answers I got were he gets it through the IU, which provides it for those districts that want it. It's Lancaster/Lebanon IU, I believe it's 13, and it's Annville/Cleona School District.

He said the cost in his words were not much different than if it was unfiltered access. They have not had a problem with it in the school. And I know that earlier this year, a classmate of my

son who is also in the computer lab with him one evening tried to send my son some pornography over the Internet from home.

And that's just one example to me or kind of prompted me to think, well, if this same child -- and it could have been my child doing it too. If this same child would have had unfettered access in the computer lab, he probably wouldn't have even waited until he got home. He would have been downloading it or transmitting it from the school computer, which I think is totally off limits. So I was pleased that they have it.

And another added note is that at home we have purchased a filter -- we went with an ISP that provides filtering. It's a local one, D & E Jazz, I think in Lancaster and York and Lebanon Counties. And I was very pleased with the level of sophistication, the choices that parents can make. There are maybe six or seven choices of levels of filtering that we can use.

And when I looked into it further, I discovered that it was provided by N2H2, which is the company David Burt works for. That's not why I purchased it. It was purchased at the ISP. But in looking into it further, I found out that my school

district also uses N2H2. So when David Burt speaks, I listen, because I know his filtering software works, just from personal experience.

Thank you for the opportunity to present this testimony.

CHAIRMAN MAITLAND: Thank you, Mr. Shaheen. Any questions? Representative Egolf.

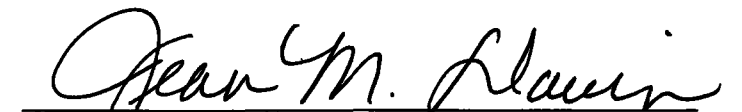
REPRESENTATIVE EGOLF: Thank you very much. I think we've had some great testimony today, and I think you've done a very good job of summarizing why we have the problem and we need to do something and why such legislation is needed. So thank you very much for your testimony.

CHAIRMAN MAITLAND: Speaking to the sponsor and the cosponsor, so you are preaching to the choir.

I want to thank you for your time and thank everyone for taking part in today's hearing. And I'll declare the hearing adjourned.

(The hearing concluded at 1:48 p.m.)

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the within proceedings and that this is a correct transcript of the same.



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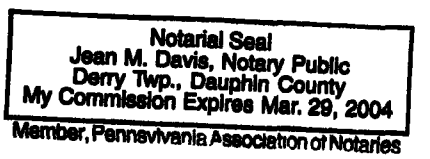

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Statement by
John H. Sulzer
President
Pennsylvania Library Association

before the Committee on the Judiciary
House of Representatives
General Assembly of Pennsylvania
June 7, 2001

LOCAL DECISION-MAKING FOR PUBLIC USE OF THE INTERNET IN LIBRARIES

Introduction

Mr. Chairman and Members of the House Judiciary Committee:

Thank you for giving the Pennsylvania Library Association (PaLA) the opportunity to present testimony in this hearing today. My name is Jack Sulzer and I am honored to serve this year as the president of the Pennsylvania Library Association. I am a native Pennsylvanian and currently serve as the Associate Dean for the Campus College Libraries at Penn State University. I should also note that I have also served as a library trustee on the board at the Schlow Memorial Library in State College, and served two terms as its president.

PaLA is pleased to be represented at today's hearing by Rich Bowra, Director of the Dauphin County Library System in Harrisburg, and Cynthia Richey, Director of the Mount Lebanon Public Library in Allegheny County. They will offer testimony and answer any questions from the perspective of library professionals in the field concerning Internet use in public libraries and possible implications of HB 10, The Child Internet Protection Act.

As president of PaLA, I wanted to take this opportunity to offer some context and background for this discussion. As you may know, PaLA is Pennsylvania's oldest and largest association of librarians, staff, and trustees. This year the Association's more that 1700 personal and institutional members are celebrating the centennial anniversary of PaLA. We represent Pennsylvania's public, academic, and special libraries that serve government, business, and other institutions. PaLA's mission is to promote the highest quality in library and information services in order to enhance learning and ensure public access to information. That is why we have adopted as our centennial theme: PaLA @ 100: Enhancing Libraries/Enriching Lives.

Libraries Enhance Information Literacy Skills

The education and nurturing of children has always been and continues to be a paramount mission of Pennsylvania's libraries. Libraries and librarians are partners with parents, teachers, and local officials in working to help their residents become information literate. Librarians teach adults and children to access, evaluate, and wisely use all information resources, including the Internet.

The concerns underlying HB 10 are important, and we commend the Committee for taking a serious look at children's Internet safety. As librarians, we share the sponsors' concerns that children's experience on the Internet be safe, educational, and rewarding. As new information technologies proliferate, it is critical that we balance the extraordinary value they bring to communications and learning with responsible use and careful guidance. Nevertheless, we are very concerned about the negative impact that a State mandate to filter all Internet resources will have on local decision-making and community control of the educational process in our public and school libraries.

Public and school libraries care a great deal about the Internet issue and continue to work diligently on ways to ensure a positive Internet experience. Librarians are on the frontline in providing the training, support, and guidance that children, parents and all library users need to become responsible Internet users. In addition to the issue of "inappropriate sites," libraries are concerned about the accuracy of information on the Internet. Libraries conduct Internet training and safety classes, customized safe Internet terminals for children's use, and links to accurate and reliable sources for children and adults. At the Free Library of Philadelphia, for example, they offer a Bits & Bytes program. It includes an after school Computer Science Club for 4th-6th graders that explores science software and science Web sites. Teenage Tech Team Assistants provide tutoring and computer assistance. The library also offers workshops to introduce technology to parents, teachers and child care providers, as well as other special programs.

This is just one example of the many, many educational programs libraries use to help develop informed Internet users and to tender responsible use of library computers and Internet information resources. Programs such as this are planned, developed and implemented through the professional expertise of librarians and educators working with

their library and school boards to meet the needs that they recognize in their communities and schools. HB 10 intercedes on this traditional, locally controlled educational process by assuming that a "one size fits all" statewide mandate will protect all of our children in all or our communities regardless of the educational tools that are deemed appropriate by local decision-makers.

The local library is one of the few institutions providing the general public with Internet instruction. The greatest tool that librarians have to work with in protecting and educating our children is forged from the ethics of our profession, responsible application of our education and experience, and the commitment, support, and direction of our local library boards. How we provide training, support, and guidance varies depending on the community we serve, and the effectiveness of technologies like filtering software in protecting children is determined by its use in combination with educational programs that serve library users at the community level, well-enforced library policies, and parental involvement. State legislation that overrides local policy-making and education undermines the entire system that has developed our public libraries from a notion by Ben Franklin into an organization of public learning institutions unmatched by any in the world.

Librarians Deplore Computer Misuse

Pennsylvania librarians deplore any misuse of library computers to access or display obscene materials found on the Internet. No local library policy in Pennsylvania supports access to or display of obscene materials in the library, either in print or on computers, and librarians vigorously enforce their local policies. The process of developing acceptable computer use policies has been important for communities. It can help parents

and other caregivers to become more aware of the issues and options they have to control or limit their own children's access to through home computers. This is the only way, in my mind, that communities can have public libraries that are safe places for us all, adults and children alike.

Until the advent of the Internet, libraries proactively chose the materials that were purchased to place in the collection. The Internet "opens the door" to materials and information far beyond what the library would choose to purchase. While there are numerous filtering programs on the market, research has demonstrated that filters have many limitations. Legitimate sites are often blocked, while the blocking of x-rated sites is not comprehensive. This creates a great challenge when looking towards a solid solution. Given that filters fall short of their intended purpose, filtering often gives parents a false sense of security. While many people will opt toward filtering despite these limitations, it is important to know that inappropriate sites will continue to be accessed, although in a lesser number. Conversely, patrons needing to access appropriate sites will often be blocked from those sites due to the blocking software.

Also, let us not forget that there are many, many positive aspects of the Internet that have vastly improved library service and access to information. For example, the statewide POWER LIBRARY program offers citizens Internet access to more than 2,000 periodical titles (with an infinite number of full-text articles), encyclopedias, AP photo archives, and a variety of additional reference databases. Libraries are continually adding numerous information databases accessible via the net, and our increase in access has been exponential. In short, one must not lose sight of nor access to all of the positive things on the Internet.

While no one approach to Internet safety will satisfy everyone in the community, we believe it is possible to work with the community to fashion a "bottom up" approach that reflects community values, addresses core concerns and provides useful solutions. Not surprisingly, local decision-making processes vary significantly and the solutions are extremely diverse. But what they have in common is involvement of the community, understanding of local norms and values, knowledge of practices that take into account the information needs of children and teens, and a general good faith desire to find a solution that respects the diverse perspectives in the community and strikes a balance between what is bad on the Internet and the multitudinous good things that is has to offer.

The fact that Pennsylvania's locally adopted policies have resulted in infrequent occurrences of abuse or illegal use of the Internet demonstrates that:

1) Pennsylvania's librarians and trustees are performing their jobs conscientiously;

2) Libraries are responsive to local community needs; and

3) Technology and management techniques are working effectively. These techniques may include: providing Internet training for children, adults and families; creating lists of recommended web sites for different age groups; placing computers in public view and adjacent to staff areas for ease of supervision and assistance; requiring parental permission for Internet access; and selective use of filtering and site blocking software.

Effective Responses to Legal and Community Issues

Under Pennsylvania law, every public library in the Commonwealth has adopted an Internet use policy that prohibits use of its computers by minors to access materials that contain or make reference to explicit sexual materials as defined in the law. Additionally,

under current Pennsylvania law, library policies (including access to the Internet) are the responsibility of local community library boards and professionally trained librarians. Obscene images and child pornography are defined in and are illegal under federal and state law and, as such, are not made available in public libraries in print or online. We do not buy it for our book and magazine collections, and we have collection standards, policies, and procedures for keeping it off the shelves, off the computers and away from children.

Librarians understand that increased access to the Internet in schools and libraries has heightened concern about children's ability to access inappropriate and illegal material. Those concerns are serious, but they are not new. At least they are not new among librarians. We had similar concerns well before the days of computers in libraries and the Internet's open door. Communities have been developing many different and effective ways to guide children's access to information for many years that are informed by professional research and judgment and local norms and values. The State should not interfere with local control and decision making by mandating a single approach to a multifaceted problem.

As librarians, working with our library boards, we continue to carry out our jobs expertly and professionally with dedication and diligence in the "information age." We, and our trustees, have always set policies to determine the materials selected for our collections and establish standards for use of the library. Computer technology has not changed this. Local library boards are made up of dedicated Pennsylvania citizens who unselfishly volunteer their time, talent, energy, and sound judgment. These individuals are in the best position to set local library policies for the communities they serve. Together, librarians and trustees continue to set the policies and make the rules that are appropriate

for our communities and the libraries we run. In the age of the World Wide Web, our public libraries remain safe and inviting environments for children and adults alike.

Libraries are currently handling access in a variety of ways, ranging from no filtering to fully filtered terminals. In some cases, terminals in the children's area are filtered or "customized for children," while terminals in the adult areas are not. In many libraries, parental permission is required to allow minors to use the Internet. While these are but a few examples, there are a large number of approaches that have been taken. There have been cases where libraries that have chosen to filter all terminals have been successfully sued (i.e. Loudon County, Virginia) by citizens demanding open access.

Regardless of any individual library's position on filtering the Internet, experience has demonstrated that interest groups such as the American Library Association and the ACLU will be quick to mount a legal challenge on Internet filtering. Both organizations have recently launched a legal challenge to federal legislation mandating filtering in libraries receiving E-Rate telecommunications discounts, and federal library funding under the Library Services and Technology Act and Title III of the Elementary and Secondary Education Act. The question then becomes: "What is the best approach to protect children from unsavory Internet sites in a fashion that will withstand legal challenge?" It may be wise to see how federal legislation would relate to state legislation, whether or not differences would cause any particular conflicts or problems, and whether any legislation linking such a mandate to government funding will withstand constitutional challenges in the courts.

Finally, it makes little sense that, in order to receive State funds, school and public libraries should be required to spend their valuable resources, mostly local tax dollars, to

purchase software filters that cannot do what this bill wants them to do. That is the purview of law enforcement. The law enforcement community doesn't rely on a piece of faulty technology to perform their challenging duties. They rely on the sound judgment of men and women who have been well trained and who believe in serving the needs of their local communities.

Therefore, the Pennsylvania Library Association strongly supports the authority of Pennsylvania's local library boards to determine the appropriate measures for educating and responding to the needs of citizens in their communities. Further, the Pennsylvania Library Association opposes action by the state or federal government to override the respected tradition of responsible and effective decision-making at the local level under the threat of losing federal or state funds. For your further reference, at the end of my statement I am providing a copy of the Statement of Principle in support of Local Decision Making adopted this past April by the Pennsylvania Library Association's Board of Directors.

I thank you for this opportunity to share the perspective of the Pennsylvania Library Association. Please know that we stand ready to work with the Committee to achieve the goal which we all share: Internet access for all Pennsylvanians, that is educationally sound, enriching, and comprehensive, and provided in a manner, especially for our children, that is as safe as humanly possible.

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Pennsylvania Library Association
Statement of Principle — April 2001

Local Decision-Making For Public Use Of The Internet In Libraries

The Pennsylvania Library Association asserts that:

- Libraries and librarians are partners with parents, teachers, and local officials in working to help their residents become information literate. Librarians teach adults and children to access, evaluate, and wisely use all information resources, including the Internet.
- The education and nurturing of children has always been and continues to be a paramount mission at Pennsylvania's libraries.
- Pennsylvania's librarians deplore any misuse of library computers to access or display obscene materials found on the Internet.
- No local library policy in Pennsylvania supports access to or display of obscene materials in the library, either in print or on computers. Librarians conscientiously enforce their local policies.
- Under Pennsylvania law, every public library in Pennsylvania has adopted an Internet use policy that prohibits use of its computers by minors to access materials that contain or make reference to explicit sexual materials as defined in the law.
- Under Pennsylvania law, library policies (including access to the Internet) are the responsibility of local community library boards and professionally trained librarians.
- Local library boards are made up of dedicated Pennsylvania citizens who unselfishly volunteer their time, talent, energy, and sound judgment. These individuals are in the best position to set local library policies for the communities they serve.
- The fact that Pennsylvania's locally adopted policies have resulted in infrequent occurrences of abuse or illegal use of the Internet demonstrates that:
  1) Pennsylvania's librarians and trustees are performing their jobs conscientiously;
  2) Libraries are responsive to local community needs; and
  3) Technology and management techniques are working effectively. These techniques may include: providing Internet training for children, adults and families; creating lists of recommended web sites for all ages; placing computers in public view and adjacent to staff areas for ease of supervision and assistance; requiring parental permission for Internet access; and selective use of filtering or site blocking software.

Therefore, the Pennsylvania Library Association strongly supports the authority of Pennsylvania's local library boards to determine the appropriate measures for educating and responding to the needs of citizens in their communities. Further, the Pennsylvania Library Association opposes action by the state or federal government to override the respected tradition of responsible and effective decision-making at the local level.

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Mandating Internet Filtering at Public Libraries Undermines Freedom

The Pennsylvania Alliance for Democracy believes that creating productive, responsible citizens requires that people be taught to think critically, to understand and respect the views of those different from them, to appreciate a broad spectrum of ideas and to respond to controversial ideas and different views with understanding and open talk, rather than suppression and censorship. The Pennsylvania Alliance for Democracy will work to ensure that Pennsylvania schools and libraries remain intellectually free and uncensored in any medium.

Adopted May 1997

The Pennsylvania Alliance for Democracy opposes laws requiring that public libraries receiving state or federal funding install internet filtering software that prevents patrons from accessing constitutionally protected material. The federal Public Law 106-554 and proposed state legislation (H 10, S 583) are each titled Child Internet Protection Act, although it should be noted that the provisions restrict access of adults as well as children.

- Democracy requires that citizens have access to information. Public libraries are an important source of information, including access to the internet, especially for low income patrons.
- Libraries are local institutions, and have policies that have been developed with community input and local control.
- Internet filters often fail to block the type of material they are intended to filter out. At the same time, they may also filter information that is not objectionable and is constitutionally protected.
- As citizens we cherish our freedom of speech and of the press, as well as our right to privacy. Only the courts can determine what material does not deserve constitutional protection.

Democracy requires that citizens have access to information. Public libraries are an important source of information, including access to the internet, especially for low income patrons.

Free public libraries facilitate the dissemination of a wide range of information on many diverse topics. Libraries make it possible for citizens to be well informed, even if they do not have substantial economic resources. A well-informed citizenry is essential for meaningful participation in democracy. Whether it is voting, writing to lawmakers, interacting with administrators of public agencies, knowing how to access services, calculating the proper amount of taxes, seeking justice in the

courts, or running for public office, civic activity requires information. For many citizens, the best place to get that information is the library, and access to the internet at our libraries has become an essential source of information.

Libraries are local institutions, and have policies that have been developed with community input and local control.

Libraries are responsible to their communities; most of their funding comes from their communities and they are governed by local community trustees. As members of the community they serve, library trustees are sensitive to local standards and aware of concerns about children accessing inappropriate material. At the same time, they must be true to their mission of making information accessible. The vast majority of libraries have adopted standards about the availability of sensitive material, whether on the internet or in other media. These standards help parents keep their children safe, while not restricting the rights of adults to access constitutionally protected material.

Libraries are places to find information. They serve diverse populations with varying needs and standards. The growth of the internet has expanded the amount of information available. Its effects are no less revolutionary than development of the printing press. Locally controlled public libraries are the best places for all of us to learn how to best use all of the information that is available.

Although most library funding comes from their local communities, state and federal funding are important to provide library users with access to electronic communication. Federal e-rate funding and Library Services and Technology Act grants are designed to assist libraries with their use of internet technology. Rather than require that libraries purchase ineffective filtering technology, we should respect the decisions of local libraries regarding both internet use policies and how to use their resources.

Internet filters often fail to block the type of material they are intended to filter out. At the same time, they may also filter information that is not objectionable and is constitutionally protected.

All internet filters sometimes fail to block the type of material they are intended to filter out, while at the same time, they may also filter information that is not objectionable. Although filters may be useful at home, in the context of a public library which serves a wide range of patrons, mandatory filtering is not workable.

Filters block large amounts of material that could not by any reasonable standard be considered obscene, indecent or harmful to minors. Blocked material can include art and literature, medical information, sexual information and advice, or discourse on controversial political subjects. According to the American Library Association, during its research into filters, the Chicago Public Library found that its own site was blocked. In testimony regarding a successful challenge to the mandatory internet filtering policy that had been adopted for Loudoun County, Virginia public libraries, the blocking software at issue was found to block out a vast amount of constitutionally

protected information including websites relating to the Society of Friends, the American Association of University Women, the Heritage Foundation, the Yale graduate school of biology, sex education, and even beanie babies.

In addition to being blocked from accessing specific sites, library patrons would be hampered in their searches for information. Filtering software does not provide a list of addresses being blocked and software companies consider their list of filtered material to be proprietary information, so library patrons won't know what they are not getting unless they know a particular site exists.

A filter may be useful at home, where parents are dealing directly with the software producer, and can review what material is being blocked or allowed for access by their own children. Still, parents need to be involved with their children's internet use, whether at home or in the library. Filtering isn't the same as critical thinking; it doesn't help children develop good decision-making ability. Children need to learn how to deal with the rapidly increasing amount of information available from many sources.

As citizens we cherish our freedom of speech and of the press, as well as our right to privacy. Only the courts can determine what material does not deserve constitutional protection.

A federal law and two state bills threaten public financial support for libraries if they do not install commercially produced filtering devices which are purported to restrict access to objectionable material over the internet. Libraries that do not comply with these mandates are at risk of losing federal e-rate funding and Library Services and Technology Act grants, which are designed to improve access to technology in libraries as well as state funding. All terminals, not just those in children's areas, would have to be filtered. Patrons who wish to view a blocked site must make a request of the librarian, who would have to respond to the request in two days. If then denied, the patron has the right to appeal to the court of common pleas.

For many personal and sensitive reasons, library patrons may be interested in information about gender identity, sexual abuse or medical conditions. To access relevant information, the patron will have to disclose their interest to a librarian. The required disclosure itself may keep people from learning helpful information about serious personal concerns.

There is no clear standard for the librarian to use in determining whether a patron shall have access to a blocked site. Librarians are not medical professionals or counselors, and are not bound by any standards of confidentiality. It is inappropriate to require patrons to provide librarian with their reasons for seeking information, nor is it reasonable to expect librarians to judge the propriety of their requests.

Mandating filters at public libraries threatens our freedom of speech and our right to privacy. Public libraries provide access to a broad range of information for diverse individuals, giving them the tools to be active and informed citizens of a democracy. Public libraries must not be forced to choose between funding and censorship.

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