MEMORANDUM OF LAW

DATE: December 5, 2002

TO: Anna Tatár, Director, San Diego Public Library

FROM: City Attorney

SUBJECT: Legality of the Library's Internet Use Policy Regarding the Use of Internet Filters

INTRODUCTION

You asked this office to review the San Diego Public Library [Library] policy regarding patron Internet use to determine if there is any legal need to revise the policy. This question has arisen in part because of recent developments in the law regarding the constitutionality of Internet filtering. In short, the Library's Internet Use Policy, which allows all library patrons to choose whether to use a filtered or unfiltered workstation, is legal and should not be revised at this time. Although federal legislation was passed in December 2000 that requires public libraries to install filters on all workstations with Internet access as a condition of receiving federal funding, that legislation has been enjoined and cannot currently be enforced. The United States Supreme Court is expected to rule next year on the constitutionality of the mandatory filtering legislation, and the Library's Internet Use Policy will need to be reviewed following that ruling. However, if the Court rules that the legislation is unconstitutional, which is likely based upon the practical problems with filtering and the strong trend in the cases on this subject, the Library's current policy will remain valid. Finally, the policy should not be revised to require minors to use a filtered workstation, as there is a strong argument that such a policy would be unconstitutional.

FACTUAL BACKGROUND

The Library's original Internet Use Policy was approved by the Board of Library Commissioners in late 1997, following a directive from the City Manager that required the Library to install filtering software on computer workstations readily accessible to children. *See* Report to the Board of Library Commissioners No. 02-01, dated March 1, 2002, enclosed as

Attachment A. In response to that directive, the Library filters were installed on at least one computer workstation in every library, and on every workstation located in areas designated for children. The Library's current Internet Use Policy, Department Instruction No. DI-20-22, became effective in October 2000. (*See* Attachment B). The policy covers the issues of access, filters, rights of users, prohibited activities, and copyright issues**.** The "Access" portion of the policy contains a disclaimer that the Library does not monitor and has no control over the information accessed through the Internet, and is not responsible for its content. The Access portion also states that parents and guardians of minor children, not the Library or staff, are responsible for their children's use of the Internet.

On the subject of Internet filters, the policy states that on selected terminals, a commercially produced filter is installed to block access to material available through the Internet that might be deemed objectionable. The policy also provides that the following message is posted on each filtered terminal:

> Internet Disclaimer Policy
>
> The Internet workstation is equipped with CYBERsitter , a commercially produced filter. Its purpose is to block access to material accessible through the Internet that might be deemed objectionable. CYBERsitter is set to block the category "Adult/Sexually Oriented." The staff of Solid Oak Software, Inc. determines which sites fall into a particular category.
>
> Nevertheless, given the nature of how information and sites become accessible through the Internet, the San Diego Public Library System cannot, and does not guarantee that the CYBERsitter filter will block all material deemed objectionable. Furthermore, staff of the San Diego Public Library System cannot be responsible for supervising minors while they are using the Internet workstation. Parents and other guardians of minor children are encouraged to learn about the many benefits and potential problems that may arise as a result of Internet access, and discuss them with their children.

Finally, the "Rights of Users" section of the policy states that Library staff reserve the right to end Internet sessions when inappropriate material is displayed on the workstation.[1]

In December 2000, Congress passed the Children's Internet Protection Act [CIPA], 20 U.S.C. 9134(f)(1)(A); 47 U.S.C. 254(h)(6)(B) and (C). This Act would require public libraries to use "technology protection measures" [filters] on all public Internet workstations by July 31, 2002, in order to be eligible for certain types of federal funding. The filters required by CIPA had to block Internet access to materials that are obscene, contain child pornography or are harmful to minors. 20 U.S.C. 9134(f)(1)(A); 47 U.S.C. 254(h)(6)(B) and (C).

In March 2001, the American Library Association [ALA], the American Civil Liberties Union [ACLU], and a group of libraries, library patrons, and Web site publishers filed a lawsuit against the federal government arguing that CIPA is unconstitutional because it

requires libraries to violate patrons' First Amendment rights as a condition of receiving federal funding. *American Library Ass'n, Inc. v. United States,* 201 F. Supp. 2d 401 (E.D. Pa. 2002), *probable jurisdiction noted — U.S. — ,* 2002 WL 31060372, (U.S. Pa. Nov. 12, 2002). The United States District Court for the Eastern District of Pennsylvania agreed with the plaintiffs, ruling on May 31, 2002, that CIPA's mandatory filtering requirement was a content based restriction on speech on the Internet that was too broad to satisfy the First Amendment, and enjoined its enforcement. On November 12, 2002, the United States Supreme Court accepted the government's appeal of that decision, and will probably rule on the case next year.

In light of these recent legal developments, you have asked this office to review the Library's current policy regarding Internet filtering, and to comment on the legal issues raised by various filtering scenarios. The following analysis outlines the legal authorities relevant to this issue, and reviews the issues associated with various filtering scenarios.

ANALYSIS

I. History of Legislation Regulating Internet Content, and the Legal Challenges to that Legislation

A. Communications Decency Act of 1996

In its first attempt to protect minors from exposure to sexually explicit material on the Internet, Congress passed legislation entitled the Communications Decency Act of 1996 [CDA]. 47 U.S.C. 223. The statute contained two basic provisions related to the protection of minors. The first provision, known as the "indecent transmission" provision, prohibited the knowing transmission of obscene or indecent messages to any recipient under 18 years of age. 47 U.S.C. 223(a). The second provision, known as the "patently offensive display" provision, prohibited the knowing sending or displaying of patently offensive messages in a manner that is available to a person under 18 years of age. 47 U.S.C. 223(d). The statute also included two affirmative defenses, the first covering those who take good faith, reasonable actions to restrict access by minors to the communication and the second covering those who restrict access to the material using an age verification system. 47 U.S.C. 223(e)(5).

Immediately after passage of the CDA, the ACLU, along with nineteen other plaintiffs, filed suit against the federal government, arguing that the CDA violated the First Amendment of the United States Constitution by imposing a content based restriction on speech on the Internet. *Reno v. American Civil Liberties Union*, 521 U.S. 844 (1997)[*Reno I*]. The United States Supreme Court agreed with the plaintiffs holding that the provisions of the CDA violated the First Amendment, as content based blanket restrictions on speech. *Id*. In doing so, the Court made several key rulings regarding the regulation of speech on the Internet.

The first of these key rulings was that the Internet is entitled to greater First Amendment protection than broadcast media, which are heavily regulated with regard to content. *Id.* at 867. The Court reasoned that the Internet is unique and not comparable to media such as radio, because it does not have a history of extensive government regulation, it does not involve a scarcity of available frequencies, and it does not have the same "invasive" nature as broadcast media (that is, it requires affirmative steps to access material, and involves less likelihood of accidentally encountering offensive material). *Id*. Further, the Court found that because of the

breadth and vagueness of the terms used in the CDA, such as "indecent" and "patently offensive," it would potentially suppress a large amount of speech that adults have a constitutional right to send and receive. *Id.* at 874. This broad suppression of speech did not meet the standard of being narrowly tailored to further the government's interest in protecting children because less restrictive alternatives to the CDA exist which would further the same goal. *Id*. at 879. Therefore, the CDA was struck down as unconstitutional. *Id*. at 885.

B. Children's Online Protection Act

Congress made a second attempt to protect children from inappropriate material on the Internet with the passage of the Children's Online Protection Act [COPA] in 1998. 47 U.S.C. 231. That statute prohibited knowingly posting material harmful to minors on the World Wide Web for commercial purposes. 47 U.S.C. 231(a). The determination of what is "harmful to minors" was to be made based on contemporary community standards. 47 U.S.C. 231(e)(6).

Once again, the statute was challenged in court by the ACLU and other plaintiffs, including Web publishers, who argued that COPA violated the First Amendment. *American Civil Liberties Union v. Reno*, 217 F.3d 162 (3rd Cir. 2000), *vacated Ashcroft v. American Civil Liberties Union,* 535 U.S. 564 (2002)[*Reno II*]. The appeals court found that COPA, as a content based restriction on speech, was presumptively invalid, and subject to strict scrutiny analysis. Strict scrutiny analysis requires that a statute placing a content-based burden on free expression be narrowly tailored to achieve a compelling state interest, and that there are no less restrictive alternatives to achieve that interest. *Id.* at 173. The court found that because of COPA's vagueness and the practical difficulties of shielding minors from harmful material on the Internet, COPA would cause publishers of material to be overcautious in censoring constitutionally protected material, and would deter adults from accessing protected information. *Id.* at 172. Additionally, the court found that less restrictive means of protecting children are available, such as the use of Internet filtering technology by parents, although the court acknowledged that such technology is flawed and is both over and under inclusive in blocking access to Internet content. *Id*. at 171. Therefore, the court enjoined enforcement of COPA. *Id.* at 181. The *Reno II* case was appealed by the government to the United States Supreme Court, which remanded the case back to the lower court for further findings, and COPA remains enjoined. *Ashcroft v. American Civil Liberties Union*, 535 U.S. 564 (2002).

C. Children's Internet Protection Act [CIPA]

Congress' third attempt to pass legislation for the purpose of protecting children from harmful Internet content, the Children's Internet Protection Act, was the first federal legislation that dealt directly with the use of Internet filtering technology. CIPA requires public libraries to certify their use of Internet filters on all Internet workstations to prevent patrons from accessing obscene material, child pornography, or material harmful to minors. 20 U.S.C. 9101; 47 U.S.C. 254. Libraries not using Internet filters are prohibited by CIPA from receiving certain types of federal funding. *Id.* The types of federal funding for libraries affected by CIPA are grants under the Library Services and Technology Act, (20 U.S.C. 9101) and "E-rate discounts" for Internet access and support (47 U.S.C. 254), which are funding sources relied on heavily by libraries in economically disadvantaged areas.

In March 2001, a group of libraries, library associations, library patrons, and Web site publishers brought a lawsuit against the federal government arguing that CIPA is unconstitutional because it requires libraries to violate patrons' First Amendment rights as a condition of receiving federal funding. *American Library Ass'n, Inc. v. United States,* 201 F. Supp. 2d 401 (E.D. Pa. 2002) probable jurisdiction noted — U.S. — , 2002 WL 31060372 [*ALA v. U.S.*]. The United States District Court for the Eastern District of Pennsylvania agreed with the plaintiffs and enjoined enforcement of CIPA. *Id.* at 495. Enforcement of CIPA remains enjoined, and the United States Supreme Court has accepted review of the case upon request of the federal government. That decision will probably be made next year.

Although the *ALA v. U.S.* case has not reached its final resolution, the findings of fact and legal analysis of the District Court in that case are very instructive regarding the practical problems with Internet filtering, and the legal implications of those practical problems. The following is a summary of the court's factual findings and legal analysis regarding the constitutionality of mandatory Internet filtering in public libraries.

1. Factual Findings Regarding the Internet and Internet Filtering

The court in the *ALA v. U.S.* case made the following factual findings which are relevant to the legal issues associated with Internet filtering in public libraries. The World Wide Web is a part of the Internet that consists of a network of computers that host "pages" of content that can be accessed by anyone with a computer connected to the Internet. *Id*. at 417. Users may find content on the Web using engines that search for requested keywords, or by typing in an address for a particular site. *Id*. The universe of content on the Web which can be accessed by standard search engines is known as the "publically indexable Web." *Id.* at 418. However, as much as 50 percent of the information on the Web cannot be accessed by standard search engines because it is not linked to other Web pages, and is known as the "Deep Web." *Id.* at 418-19.

A 2000 study estimated that there would be a total of 11 million unique web sites by September 2001, with the indexable Web growing at a rate of approximately 1.5 million pages per day. *Id*. at 419. The Deep Web is estimated to be from two to ten times the size of the indexable Web. *Id*. The number of Web sites offering free sexually explicit material is approximately 100,000. *Id.*

The majority of public libraries offer Internet access to patrons, and approximately 10% of Americans who use the Internet do so at public libraries. *Id.* at 422. Almost all libraries with public Internet access have Internet use policies governing patrons' use of the Internet. *Id*. These policies vary, with some prohibiting the viewing of sexually explicit material, and others not prohibiting such viewing, but using other methods to prevent such viewing from being seen by other patrons. There are four primary ways that libraries regulate patron Internet use: (a) channeling Internet use by providing training or recommended sites; (b) providing privacy screens or recessed monitors, or positioning terminals so that other patrons cannot view the screen; (c) placing all monitors in a visible location, such as near the reference desk, and enforcing a use policy prohibiting the viewing of offensive material; and (d) the use of Internet filtering software. *Id.* at 423-26. According to a 2000 survey, only 7 percent of public libraries use filtering software for adult patrons. *Id.* at 426.

Internet filters are commercially available software programs which compare the address

of a site that the user is trying to access with a control list of sites. *Id.* at 428. The control sites are divided into various categories, such as Adult/Sexually Explicit, Chat, Criminal Skills, Hate Speech, Personals and Dating, Politics, and Tasteless/Gross. *Id.* at 428-29. Some sites are included on the list due to inappropriateness for minors, however, others are included for ideological reasons or because they are controversial. Users of the software can customize the list of categories to be blocked, and individual sites can be "unblocked" upon request. *Id*. at 429.

Internet filtering software has limitations that result in a significant amount of "under blocking" and "over blocking" of information. One of the critical limitations of Internet filtering software is that it searches text only, not images. *Id*. at 431-32. It is also unable to search for material on the "Deep Web, which may be up to 50 percent of the material on the Web. *Id.* at 431. The software also does not have the same ability as a human viewer to distinguish between sites which belong in the control categories and those that do not, and cannot keep up with the new and modified material that is constantly being added to the Web. *Id.* at 433. It is difficult to quantify the amount of under and over blocking which occurs; however, there are many known examples of erroneously blocked sites. Some of those detailed in the court's findings in the ALA case include sites for church groups, an orphanage, the home page of a Buddhist nun, sites for political candidates, humor sites, health related sites, and many others. *Id.* at 446-47. Based upon this information about the limitations of filtering, the court in the *ALA v. U.S.* case concluded that all currently available filtering programs erroneously block a "huge" amount of speech which is protected by the First Amendment, which does not fit into any of the filtering companies' category definitions, and which contains no content which is obscene, pornographic, or harmful to minors. *Id.* at 448.

2. *ALA v. U.S.* Legal Analysis: Internet Filtering and the First Amendment

In the *ALA v. U.S.* case, the court began its analysis by setting forth three guiding legal principles for analyzing the constitutionality of CIPA. First, the court cited the United States Supreme Court case of *South Dakota v. Dole*, 483 U.S. 203 (1987), which held that the Congress' power to spend under article I, section 8, cl. 1 of the United States Constitution has several limitations, including that the spending power "may not be used to induce the States to engage in activities which are unconstitutional." *Id.* at 450. Second, the court also noted the principle that under the First Amendment guarantee of freedom of speech, a statute is unconstitutional on its face if it prohibits a substantial amount of protected speech. *Id.* at 451-52. Third, the court ruled that the level of scrutiny that should be applied to content based restrictions on Internet access in public libraries should be "strict scrutiny." *Id*. at 462. Strict scrutiny analysis requires the government to show that the challenged restriction on speech is narrowly tailored to promote a compelling government interest, and that there are no less restrictive alternatives that would further that interest. *Id*. at 471.

The court's finding that strict scrutiny should be applied to restrictions on Internet speech was based on several factors. First, the court noted that content based restrictions on speech are generally subject to strict scrutiny. *Id.* at 454. Additionally, the extent to which the government can restrict speech is dependent upon the character of forum where the speech is taking place. The court found that Internet access in the public library is a comparable forum to other traditional public forums for speech, such as public sidewalks and parks, because it is an open forum for speech by all members of the public on "subjects as diverse as human thought." *Id*.

at 470.

In conducting the strict scrutiny analysis of CIPA, the court found first that the government has a compelling interest in preventing public library Internet workstations from being used to view obscene material, child pornography, and material that is harmful to minors, as well as in protecting unwilling viewers from those types of material. *Id.* at 471-73. However, the court found that CIPA was not narrowly tailored to further that compelling interest because commercial filters block substantial amounts of protected speech which the government has no compelling interest in suppressing. *Id.* at 476. The court also found that there are less restrictive alternatives to filtering that further the governments interests, including the adoption and enforcement of Internet use policies, requiring parental consent for a minor's use of a filtered workstation, or giving all patrons an option of using a filtered or unfiltered workstation. *Id.* at 175-185. Additionally, the interests of "unwilling viewers" can be protected with the use of privacy screens, recessed monitors, or the positioning of terminals so that the screens are out of public view. *Id.* at 480-83.

Next, the court reviewed the issue of whether CIPA's "disabling" provision allowing for the disabling of the Internet filter on a case by case basis was sufficient to cure the statute's First Amendment problems. *Id.* at 484. The court concluded that this provision did not cure the constitutional problem, because the provision requires a patron to make a request to library staff in order to have the software disabled in order to access a particular site. In reaching this conclusion, the court relied on previous case decisions which have held that content based restrictions on speech which require recipients to identify themselves before being granted access to information are subject to the same scrutiny as outright bans on speech. *Id.* at 486-89.

In conclusion, the court ruled that CIPA is facially invalid because it induces state libraries to violate the First Amendment by using filters on all workstations with Internet access. *Id.* at 489. The mandatory use of filters was held to be a content based restriction on speech that blocks a substantial amount of speech that the government has no interest in suppressing, and because there are less restrictive alternatives that protect the legitimate interests of minors and other patrons. *Id.* at 489-90. Therefore, the court enjoined the federal government from enforcing CIPA, and it remains enjoined pending the United States Supreme Court review of this decision.

D. Other Cases: State Statutes and Local Policies Regulating the Internet

In addition to the federal legislation and cases noted above, there are several other cases in which state statutes and local policies attempting to regulate Internet speech have been consistently struck down for constitutional reasons. These cases include: *American Libraries Ass'n v. Pataki*, 969 F. Supp. 160 (S.D.N.Y. 1997) (New York state statute criminalizing the use of a computer to disseminate obscene material to minors); *Mainstream Loudoun v. Board of Trustees of the Loudoun County Library*, 24 F. Supp. 2d 552 (E.D. Va. 1998) (library policy that required the use of Internet filtering software to block child pornography and obscene material on all library computers); *American Civil Liberties Union v. Johnson*, 194 F.3d 1149 (10th Cir. 1999) (New Mexico state statute criminalizing the dissemination by computer of material harmful to minors). In the *Mainstream Loudoun* case, the court engaged in a similar First Amendment "strict scrutiny" analysis as the one performed by the District Court in the *ALA v. U.S.* case, and also found that a policy of using mandatory Internet filtering in a public library did not survive the strict scrutiny analysis, because the policy was not narrowly tailored to

further the government's interests, and because there are less restrictive alternatives. *Mainstream Loudoun*, 24 F. Supp. 2d at 567.

II. Analysis of Filtering Scenarios

The following is an analysis of the four possible ways in which Internet filtering can be used by the San Diego Public Library, and the legal issues associated with each of those potential uses of filtering, in light of the authorities discussed above.

A. Mandatory Filtering of All Workstations

The mandatory filtering of all public library workstations for all patrons would almost certainly be struck down by the courts as unconstitutional, based on the precedents set in the *ALA v. U.S.* and *Mainstream Loudoun* cases. In both of those cases, the courts found that mandatory Internet filtering in the public library violated the First Amendment rights of patrons due to the limitations of filtering software which necessarily under blocks some obscene material, and over blocks constitutionally protected material which the government has no interest in suppressing. The courts have found that other alternative methods exist for protecting minors and unwilling viewers that do not suppress protected speech, including training of patrons and the use of recommended sites, the enforcement of Internet use policies, the use of privacy screens and recessed monitors, and providing patrons with the optional use of filtering software. Although the *ALA v. U.S.* case has been accepted for review by the United States Supreme Court, and that review is still pending at the time of this memorandum, it is unlikely that the Supreme Court will uphold the use of mandatory Internet filtering, based on the inherent problems with filtering technology, and the resulting suppression of protected speech by that technology. At this time, there does not appear to be any conceivable technology that will solve this practical problem to the extent that the courts would approve of the mandatory use of filtering technology by public libraries.

B. Mandatory Filtering for Minors Only

One alternative to mandatory Internet filtering for all patrons would be the use of mandatory filtering only for patrons who are minors. There have been no cases which have analyzed the constitutionality of mandatory Internet filters for minors only; however, there are cases on other subjects in which courts have ruled that minors have their own First Amendment right to receive information. These cases strongly suggest that a "minors only" Internet filtering policy would be found to be unconstitutional for the same reasons that policies mandating filtering for all patrons have been found to be unconstitutional in the *ALA v. U.S.* and *Mainstream Loudoun* cases.

In the case of *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969), the United States Supreme Court ruled that a public school could not bar students from wearing black armbands protesting the war. The Court stated in its ruling that "students in school as well as out of school are 'persons' under our Constitution . . . possessed of fundamental rights which the State must respect." *Id.* at 511. In *Board of Education v. Pico*, 457 U.S. 853 (1982), a case involving the removal of controversial books from the school library, the court found that minors' First Amendment rights extend to receiving information as well as expressing themselves, stating: "the right to receive ideas is a necessary predicate to the

recipient's meaningful exercise of his own rights of speech". . . "students too are beneficiaries of this principle." *Id.* at 867-68. The First Amendment rights of minors have also been recognized outside the context of schools. *Bolger v. Youngs Drug Products Corp*., 463 U.S. 60 (1983).

It should be noted that the First Amendment rights of minors are more limited than those of adults, because certain materials can be deemed "obscene" for minors, even if they are protected for adults. *Ginsburg v. New York*, 390 U.S. 629 (1968). The *Ginsburg* case cannot be used as a justification for the mandatory use of Internet filters for minors, however, because the Supreme Court has held that minors cannot be restricted from accessing broad categories of information when only some of that information qualifies as "obscene" for minors. *Erznoznik v. City of Jacksonville,* 422 U.S. 205 (1975). That principle would apply to the use of mandatory Internet filtering for minors, because such filtering over blocks access to information which is not obscene or harmful, in addition to blocking information which is obscene. Therefore, it is unlikely that a mandatory filtering policy for minors would survive a legal challenge.

C. Patron Choice Regarding Use of Filtering

The current San Diego Public Library Internet Use Policy provides at least one filtered Internet workstation at each branch library, and allows patrons, both adults and minors, the choice of whether to use a filtered workstation. Because this current policy does not mandate the use of filtering for either adults or minors, it is not vulnerable to a constitutional challenge in the same way that mandatory policies have been in the cases discussed above. The provision of a filtered workstation on an optional basis is a good solution because it allows those patrons who would prefer to use a filtered workstation to do so. The disclaimer used by the Library clearly communicates to patrons wishing to use the filtered workstation that the software will not block all objectionable material, and that parents are responsible for supervising minors using the Internet, and therefore allows patrons an informed choice about whether to use the filtered station. It is significant that the court in the *ALA v. U.S.* case expressly approved of allowing library patrons the optional use of filtering software as a less restrictive alternative to mandatory filtering. *ALA v. U.S.*, 201 F. Supp. at 490.

D. No Internet Filtering

While the option of not having any filtered Internet workstations resolves the potential First Amendment issues associated with mandatory filtering, it does not allow patrons the benefit of having choice, and in at least one case resulted in a lawsuit due to a minor's exposure to offensive material. *Kathleen R. v. City of Livermore*, 87 Cal. App. 4th 684 (2001). In that case, a parent sued the City of Livermore because her minor son used the Internet on a City library computer to download sexually explicit photographs onto a floppy disk without the parent's knowledge. The court held that the City had no legal duty to protect a minor from harmful material on the Internet, noting that the library did not affirmatively provide the material to the minor, and that the library posted a policy warning that patrons using the Internet do so at their own risk, and that the library does not supervise minors' use of the Internet. *Id.* at 701. Based on the result of the *Kathleen R*. case, there does not appear to be any risk of liability associated with the failure to provide Internet filtering at a public library. However, from a policy standpoint, this alternative does not provide patrons with the choice to use a filter, therefore, the Library's current policy of allowing patrons optional filtering appears to be the best approach.

CONCLUSION

Although the state of the law on mandatory Internet filtering is not completely settled, because of the pending review of the *ALA v. U.S.* case by the Supreme Court, the strong trend in the courts so far has been to find mandatory Internet filtering by public libraries to be unconstitutional, and a violation of the First Amendment guarantee of free speech. Based on this trend in the case law, and the practical difficulties with Internet filtering, for which there is no conceivable technological solution, it is unlikely that the Supreme Court will come to a different conclusion when it makes its decision. Under these circumstances, the Library's current Internet Use Policy which gives patrons a choice regarding the use of a filter is a good compromise which avoids the legal problems with mandatory filtering, yet recognizes the legitimate interest that many parents have in protecting children from harmful content on the Internet to the extent possible. It is the recommendation of this office that the Library maintain its current Internet Use Policy until resolution of the *ALA v. U.S.* case by the Supreme Court, at which time we will review the policy to ensure its continuing legality.

CASEY GWINN, City Attorney

By
Lisa A. Foster
Deputy City Attorney

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Attachments
ML-2002-12