February 2005

Little Red Herrings: Part Three -- Free Speech and Filtering Myths

Mark Y. Herring

Winthrop University, herringm@winthrop.edu

Follow this and additional works at: <https://docs.lib.purdue.edu/atg>

Part of the [Library and Information Science Commons](#)

Recommended Citation

Herring, Mark Y. (2005) "Little Red Herrings: Part Three -- Free Speech and Filtering Myths," *Against the Grain*: Vol. 17: Iss. 1, Article 49.

DOI: <https://doi.org/10.7771/2380-176X.4773>

This document has been made available through Purdue e-Pubs, a service of the Purdue University Libraries. Please contact epubs@purdue.edu for additional information.

Little Red Herrings: Part Three — Free Speech and Filtering Myths

by Mark Y. Herring (Dean of Library Services, Dacus Library, Winthrop University) <herringm@winthrop.edu>

This is Part Three in a series. See Part One "Filter-tipped Libraries," in *Against the Grain*, v.16#5, p.62 and Part Two "Oh! The Tangled Web," in v.16#6, p.80.

I've always been dumbfounded by the splenetic on the filtering debate. Last time we ended with the question, "Is free speech always protected?" If the answer is in the affirmative, then there should never be a question. On the other hand, if the First Amendment allows for exceptions, and it can be proved that pornography is one of them, then the debate should be ended. The simple fact of the matter is this: Never in our country's history has pornography, obscenity or anything remotely resembling the same been considered protected by the First Amendment's free speech clause.

Granted, the court has been very expansive in its opinions about what speech is, citing everything from nude dancing to the wearing of arm bands as constitutionally protected "speech." But it's clear that whatever the form of speech, not all manners or modes of expression are First Amendment safe. Court after court has repeatedly held that *some forms* of speech are not protected at all.

In *Roth v. United States*, obscenity is not protected by the First Amendment. Further, *Roth* held that *not all speech is equally protected by the First Amendment*, and, further, that *some expressions, such as obscenity should not receive protection, if any at all*. Moreover, *Brennan* held that not only was obscenity "utterly without redeeming social importance," but also fell into the same category as libel. *Beauharnis v. Illinois* had already determined that the First Amendment did not protect libel. *Roth* has not been overturned, merely fine-tuned, as in "Roth Test." As liberal a judge as *Potter* argued that the Constitution protects all but "hardcore" [*Potter's words*] pornography.

Miller v. California, another censorship case, further augments *Roth*, offering "community standards" as an addition but it did not overturn either *Roth* or *Memoirs*. Some forms of expression exist and are *not* protected by the First Amendment.

If the First Amendment allows that some forms of speech are unworthy of protection, why is *ALA* teaming up with the *ACLU* to protect pornography? Because filtering *might* restrict some information. This argument is, however, disingenuous because it rests on the public's lack of knowledge about filtering, a lack that *ALA* has been eager to contribute to.

Filtered information can be unfiltered. It may not be easy and may require greater technical expertise of the librarian, but it *can* be done. Indeed, it is being done and quite successfully. Let's grant that *ALA* really doesn't want to protect *weare18.com* but protects it because it does not want to lose *breastcancerinfo.com*. Filter-

ing one may filter the other, goes the argument.

But the argument is entirely bogus. Filtering one *does not* filter the other. Even among sites on the same domain, individual ones may be turned off or on. So *ALA* switches the argument to a cultural one. It runs this way: Most intelligent people understand that censoring in any form is wrong and a violation of everything Americans hold dear. By remaining foursquare against filtering, therefore, librarians stand with the majority.

Even here, however, librarians are on thin ice, making an argument where there isn't one. The majority public opinion remains *with* filtering. Group after group, and not only those which could legitimately be called part of the "religious right," are coming out by the scores in favor of filtering at some level. It's clear that *ALA* stands outside the mainstream in making this case because it stands with organizations like *Playboy* and the *ACLU*.

Librarians must reconsider their position on filtering and begin the arduous process of making a defensible case for it. The case made here is only a beginning. Others must also join the debate. That we are fast approaching an epidemic of pornographic Internet access is clear. Cases are now coming to light in which library access to the Internet aided and abetted child-molesters (such as the recent case in Los Angeles). Moreover, a recent survey by a company that measures such things, **Filtering Facts**, indicates that 45 percent of all Internet pornographic access in libraries is being done by underage young people. Since libraries now offer 50 percent of all Internet access outside the home, they are fast becoming our nation's chief purveyors of pornography.

The debate has led to a number of myths now circulating about filtering. Sadly, *ALA* is most responsible for giving these myths so much longevity. If we are to have a debate, it should be on the facts, not on the frenzy.

Myth One: Filters Do Not Work: Period. End of statement. There are at least two things wrong with this: the claim and the evidence. Do filters work? Short answer: astoundingly well. In one study filters incorrectly screened out 64 pages out of a total of 54 million for an error rate of less than one half of one percent. In a Tacoma, Washington study completed last year, *CyberPatrol* correctly filtered sites 98.8 percent of the time. Would that all technology worked so well! Since filtered sites can be turned "off" and "on," this means that virtually all of the incorrectly filtered sites could be reopened. Filters will screen out correctly exactly what you tell them. As with all technology, some manipulation is required.

The aforementioned *ALA* claim that filters would block access to *breastcancer.com* because "breast" is a stop word is patently false and meant to mislead. If our choice is to keep

hugewhatevers.com and the rest of the Internet, or lose it altogether, the decision will not be a difficult one. Bear in mind that a mere *decade* ago Internet access was non-existent to rare, and no one felt we were especially information-deprived. The issue is never, "Keep the Internet unfiltered or do away with it," but if opponents want to make it this, then so be it. Do away with it. We got along fine without it, or has everyone forgotten this?

Myth Two: Librarians Are Solidly Against Filters. For years, the 50,000-plus membership of *ALA* librarians shared one mind on the issue of censorship and intellectual freedom. *ALA* could count on a lock-step mentality ... until now.

Not only has the **Association of College and Research Libraries**, the largest library association designed specifically to represent libraries in academe, called for an extended debate on filters, but so has the **National Commission on Libraries and Information Science**. Both have offered statements that conflict with *ALA's ne plus ultra* view. Forty-seven librarians in Minnesota pleaded with their library board to install filters. In an open letter, the librarians, representing over a third of the city's librarian population, argued "Every day we, too, are subjected to pornography left (sometimes intentionally) on the screens and in the printers. We do not like it either. We feel harassed and intimidated by having to work in a public environment where we might, at any moment, be exposed to degrading or pornographic pictures." As if aware of the growing concern, *ALA* now advises librarians to misreport the number of pornography incidents to avoid getting a solid figure, a fact made public at a press conference earlier this month and documented in *Dangerous Access, 2000 Edition: Uncovering Internet Pornography in America's Libraries*.

This would be laughable were it not so tragic. Imagine some miscreant who put pages of horrific male behavior at people's desks. He would be rightly fired. Or imagine the CEO of a company putting together a **PowerPoint** and inserting a scantily clad woman in the middle of the slides. He would be tarred and feathered before booted off the roof. Yet our own professional organization defends the right of total strangers to do this regularly to the library's computers. Moreover, those who want to retard it—not stop it completely, mind you—are railed against as primitive-minded and jack-booted.

Myth Three: Research Shows Filters Useless. In a report released two years ago, *ALA* touted, both in *American Libraries*, and on its Website, that filters are so ineffective that they block nearly 25 percent of all useful information. As it turns out, *ALA* knew its research to

continued on page 91

Little Red Herrings: from page 90

be flawed from the start. **Filtering Facts** made this clear in a report on the methodology published subsequent to the **ALA** report. In it **Christopher Hunter**, a doctoral student at the **Annenberg School for Communication** of the **University of Pennsylvania** and responsible for the **ALA** study, came clean, issuing a statement that his findings were *not* generalizable to the wider Internet. In fact, as has been shown, the exact opposite is true. Unsurprisingly, **ALA** has since dropped the report from its Website but without fanfare or correction. But even if it could be shown that filtering did block 25 percent of good information, the trade-off seems to me a good one. Get rid of 100 percent of the bilge water on the Web and have 75 percent of good information. Again, ten years ago we didn't have access to 100 percent of the Web.

Myth Four: Most People Favor a "Filterless" Internet: As must be obvious by now, even librarians disagree with this statement. Moreover, states issuing requirements for filtering are popping up everywhere. South Carolina, Wisconsin, Utah, Michigan, Alabama, North Carolina and Missouri have filtering laws on the books, or ones pending. In a **U. S. Supreme Court** case brought about by six Virginia professors, the high Court rebuffed them by refusing to take the case and upholding the U.S. Court of Appeals for the Fourth Circuit. The state argued that the law prevents employees from wasting time and from creating a sexually hostile workplace and the nation's highest court in the land upheld that ruling just this year. Moreover, evidence mounts that libraries are becoming not only the most readily available purveyors of pornography, but also key targets for pedophiles. The pedophile monitoring group, *PedoWatch.org*, has confirmed that on-line pedophiles are telling each other to use public libraries to download child pornography. Finally, even the argument that this is more clap-

trap from the wild-eyed Right no longer obtains: just three years ago, both **Al Gore** and **Hillary Rodham Clinton** publicly came down on the side of filtering the Internet!

What is clear from all of this is that **ALA** has an odd axe to grind: It wishes to vouchsafe the promulgation of pornography. Two summers ago, **ALA's** annual convention offered a panel on erotica in libraries. The enticement, so to speak, read, "The main focus will be on bibliographic selection along a number of different dimensions [and] ... explicitness: PG, R, and X. Different sexual subject areas will also be covered: 'vanilla' heterosexual, lesbian, gay, vampire, SM, anything goes, as well as factors like literary quality, audience, and trends...." **The Modern Language Association** now has a rival! Since libraries have *never* collected such materials in print (incidentally, the strongest argument in favor of filters), the session should help further **ALA's** argument that such material is "information."

The argument that filters restricted *information* leads to the obvious question, what kind of information? If **ALA** argues that this is sex education, surely no one will agree. What else is there? Nothing. **Horace** understood human nature better than most moderns: "The mind," he wrote, "is more easily stirred by the eye than by the ear."

The issue refuses to go away no matter how hard **ALA** and its minions wish it would. Librarians who flaunt their intellectual freedom credentials may find danger ahead. **The Greenville County (S.C.) Commission** unseated four of the five incumbent library trustees seeking reappointment to the 11-member body. The commission's February 15, 2000,

action came one month after the library board resisted public pressure to have blocking software installed, opting instead to require written parental permission before minors can surf the Internet on the library's unfiltered computers. The library's director also felt the axe fall. Last fall in Oklahoma, after a director made a grand stand for a filterless Internet, local voters rejected by a wide margin the library's bond bill. This could be a trend.

While some librarians increasingly opt for the "tap on the shoulder" approach (also devoutly opposed by **ALA**), parents are becoming increasingly angry at the refusal of librarians to act *in loco parentis* when their children come to call. The end result will be a battle royal. Oddly, a few years ago we nearly destroyed the apple industry because eating 740 alar-treated apples everyday for 70 years *might* cause cancer. We did it for the children. Today, however, apparently 100 million pornographic sites are not too many for our kids. Hey, they might miss those famous dancing hamsters having sex! Librarians cannot hope to win this issue if they unwisely continue to support **ALA's** misguided, wrong-headed and error-filled approach.

The sad fact of the matter is this: If we do not make the case that hardcore pornography can be filtered defensibly, then others will make the logical deduction that nothing can. **Huxley** once said that the true intellectual is one who finds something other than sex to be interested in. The serious fact of the matter is the anti-filtering position held by **ALA** may result in the loss of librarians' public voice, not to mention our public standing, and, most importantly, our public. 🐘

Leaving the Books Behind! — The Alter Ego

by **Mary E. (Tinker) Massey**, Column Editor (University of South Carolina, School of Library and Information Science, Columbia, SC) <MMassey@gwm.sc.edu>

CHAOS from page 89

All of these complex functions are possible, but developing these systems will be costly. Having standards would mean that developers could create systems that work for an entire market, which makes it possible to recover the cost of development.

Although work on standards for eBooks is mainly on hiatus at this moment while the market for eBooks builds and the industry gains experience, it seems clear that a wider use of books in electronic format will require more standards development. This development will arise from different market sectors and use communities as their needs reach a critical point, yet there will be areas where those needs intersect. It will take a combined effort of the publishing community, engineers and data specialists, and the cultural and educational communities to create the standards needed for our eBook future. 🐘

Wow! Can't believe it is a new year, 2005. Late last year after the course work was completed, I reverted to my alter ego of writer for my grandchildren. Bet you didn't know I have fourteen of those wonderful creatures related to me. Truly a gift, but rough at Christmas. My gift to them is a booklet each year of children's stories revolving around my childhood and that of my deceased husband who is their blood kin. They are full of the mysteries of growing up in the 50's, but also filled with morals and family relationships that seem to be lacking today. We all have such a fun time with them and it is good for me to remember the "rules of living" my parents have given me. I have also begun to write some adult novellas that are full of relationships and wisdom learned through my growing years. It is a way to leave my history behind. The oral tradition has come to almost a complete stop in the world, as we relish technology, speed, separation and "throw-away" life. We have forgotten where we come from or even

where we are going. Libraries are starting to renew our interests in family with programs on lineage studies, genealogy research and an occasional program visitation with older folks in the community who remember certain celebrated times (e.g., World War I or II, the Roaring 20's, Roosevelt, or the Civil War). Every chance I get, I am encouraging new writers to pursue penning their memoirs, or doing stories or poetry around their youthful memories. I also try to encourage Public Libraries to add programs of local history from the folklore of the older residents. Why not? We need to learn from the past and move in positive directions.

My coursework sometimes overshadows the pleasure writing, but I can always find time even through the two jobs, MLIS work and helping a needy family all year long. We find time for the important things in life. My recent work in the Special Collections at **USC Libraries** has led me to a new interest in writing. I have been

continued on page 92