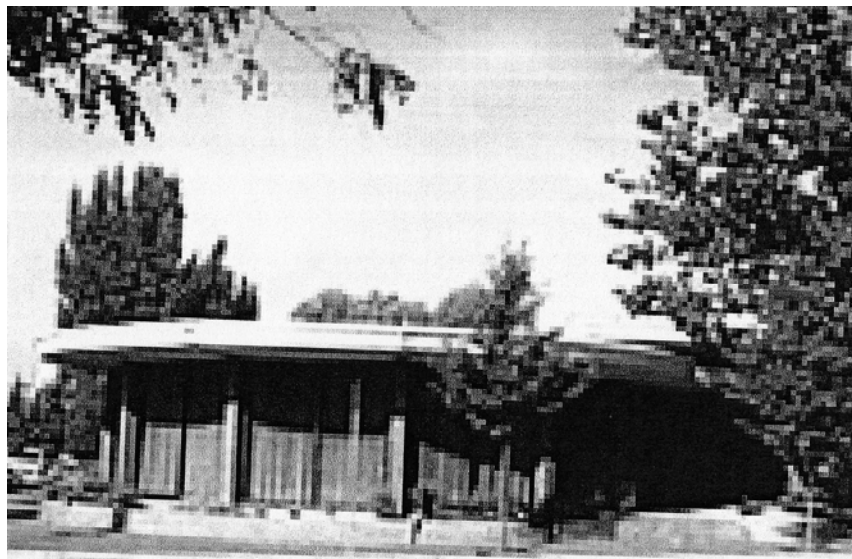


PORNOGRAPHY FILTERS and THE FIRST AMENDMENT

SUMMARY

Both the 2007-08 and 2008-09 Grand Juries investigated and made recommendations to the Sonoma County Library Commission (the "Library") and Sonoma County Library Administration. Last year's Jury was compelled to reopen the investigation due to the rejection of most of its predecessor's recommendations to the Library. This year's Grand Jury has decided to open a further investigation of the Library, specifically aimed at the installation of pornography filters on library computers.



REASON FOR INVESTIGATION

The Library refused to consider Recommendation-3 from last year: *"Request a filter on all computers at the Central Library as a means of protecting minors against pornography, taking advantage of the E-Rate discount and achieving the protections embodied in the "Protection of Children Against Sexual Exploitation Act of 1977".*

It was the opinion of the 2009-2010 Grand Jury that the reasons provided by the Library were not compelling enough to warrant an outright refusal to comply on the pornography filter issue. The Library's stance is essentially that pornography filters are ineffective: they are found to either over-block non-pornographic material or under-block offensive materials.

INVESTIGATIVE PROCEDURES

Interviews conducted:

- Chairman, Sonoma County Library Commission
- Customer Service Technician, Federal Communications Commission

Documents and data reviewed:

- Grand Jury Report 2008-09
- Library response to Grand Jury Report 2008-09
- Minutes to Library Commission meetings
- Minutes to Board of Supervisors meetings
- FCC forms: 470, 471 and 486
- *Libraryfiltering.org* : Website for libraries considering filtering
- Universal Service Administration Company website (www.usac.org)
- City of San Jose study: "Policy Options and Staff Report Relating to Internet Filtering Proposal and Computer use at San

Jose Public Libraries"

BACKGROUND

The 2008-09 Grand Jury investigation resulted in the following recommendations:

"R-1. Stop just reviewing the enforcement policies of the Standards of Behavior and start implementing them.

R-2 . Immediately prioritize the implementation of the interior floor plan at the Central Library and move the computers to a side wall out of the present main aisle, as approved by the FY 08-09 Sonoma County Commissioners budget.

R-3. Request a filter on all computers at the Central Library as a means of protecting minors against pornography, taking advantage of the E-Rate discount and achieving the protections embodied in the "Protection of Children Against Sexual Exploitation Act of 1977".

R-4. Immediately impose a smoke free zone to the entire Central Library property extending to the edge of the city sidewalk. (permission was granted by the Mayor of Santa Rosa on October 1, 2008. "

To its credit, the Library addressed and/or implemented R-1, R-2 and R-4. R-2 is contingent upon receiving budgetary funding.

Initially, the Library declined to install filtering software (R-3) citing First Amendment issues. Their final response instead cited the relative ineffectiveness of filtering technology, which they reported had only a 48% success rate and blocked too high a percentage of legitimate sites in the process.

In the course of researching their claim of ineffectiveness of current filtering technology, it appears they have overstated their case. Grand Jury research has yielded that the most effective products developed for schools and libraries have an 85% success rate on pornographic websites. Conversely, the "over-blocking" rate, which is unavoidable, is approximately 15% in the best software packages. Additionally, there are a handful of products that will block 100% of offensive materials, but predictably, the over-blocking rates on these are much higher.

Interestingly, as the Grand Jury dug deeper into the issue of the problem of protecting minors from viewing pornography and other offensive materials, we became aware of the Child Internet Protection Act (CIPA)(FCC 03-18). This is legislation (passed on December 15, 2000, signed into law by President Clinton on December 20, 2000 and was upheld by the Supreme Court of the United States on June 23, 2003) that covers all sorts of issues with the ultimate goal of protecting our children from viewing offensive materials via the internet in public places.

Additionally, Federal funding is available to eligible schools and public libraries for inexpensive access to internet providers, telecommunications and other computer related services that may otherwise be too expensive to obtain. This program is known as "E-Rate". Libraries and schools participating in E-Rate must comply with CIPA in some cases. One of the many requirements of the E-Rate program is that if Internet connectivity is subsidized under the program, pornography filters must be installed on all computers in the facility. There is a 3-year step program that allows the library or school make plans (budgetary and/or logistically) to come into compliance with CIPA. If only services other than internet connectivity are obtained through E-Rate (e.g. telecommunications), the filters are not required.

The Sonoma County Library system does, in fact, subscribe to the E-Rate program, but for telecommunications services only. Thus, it is under no compulsion to comply with CIPA (i.e. not required to install pornography filters). However, after requesting the monthly invoices for internet services as purchased by the Sonoma County Library system, it appears that a significant monetary benefit is being overlooked. Using the matrix shown in Table 1 (page 4), the Library system may be eligible for as much as a 60%, or \$15,000.00, discount on its internet service fees. In light of budget cuts, mandatory employee furloughs over the holidays and other reductions of services, it would seem that Library management would take full advantage of these savings.

FINDINGS

- F-1 Library system has no pornography filters on ANY computers, including those in the children's section.
- F-2 Library management has not conducted any recent research into effectiveness of filters.
- F-2 A 60% discount on internet services could be realized through the E-Rate program.
- F-4 In order to be eligible for the 60% discount, the Library system's computers would need to become compliant with CIPA.
- F-5 The more effective pornography filters available are successful in blocking 85% of websites containing offensive material.

CONCLUSIONS

The Library Commission has done an admirable job over the past 2 years responding to the needs of its users as well as the recommendations of the Grand Jury. The Central Santa Rosa Library branch, in particular, is now a much safer and enjoyable facility to visit due to the many improvements implemented by Library management.

The issue of pornography filters, however, is still an important issue that needs to be dealt with. It is a fact that minors may be exposed to pornographic images of a shocking and offensive nature. While both the Library Commission and Library management are properly concerned about First Amendment issues, they seem to be more concerned with preserving the right to access these images by consenting adults than protecting our minor children. With filters installed, any adult may, by simply asking a librarian, turn off the filters. No First Amendment rights are infringed upon and our children have been afforded a safer Library experience.

RECOMMENDATIONS

- R-1 As a pilot and so that all parties may get a better understanding of how the filters work, install filters on ALL computers in the Children's section.
- R-2 Appoint a committee to update its research and analysis on the current filters now available on the market and their relative effectiveness (for ultimate use in the main library computers).
- R-3 Research committee is to report back to next year's (2010-2011) Grand Jury in writing with their findings.
- R-4 Work with Board of Supervisors to appropriate proper funding for a reorganization of the computers on the main aisle at the Central Library.

Required Responses to Recommendations:

Santa Rosa Central Library Director: R-1, R-2, R-3, R-4
 Sonoma County Library Commission: R-2, R-3, R-4

Requested Responses to Recommendations:

Sonoma County Board of Supervisors: R-4

Table 1:

The amount of discount through the E-Rate program for a particular library is based upon the percent of students in that specific district who are *eligible* for the National School Lunch Program. The matrix used by the FCC is shown below:

Criterion for Discount Eligibility

| Students ELIGIBLE for the National School Lunch Program | URBAN COUNTY Discount | RURAL COUNTY Discount |
|--|---|--|
| If the % of students in your school that qualifies for the National School Lunch Program is... | ...and you are in an URBAN area, your discount will be... | ...and you are in a RURAL area, your discount will be... |
| Less than 1% | 20% | 25% |
| 1% to 19% | 40% | 50% |
| 20% to 34% | 50% | 60% |
| 35% to 49% | 60% | 70% |
| 50% to 74% | 80% | 80% |
| 75% to 100% | 90% | 90% |