Abandoning Snowden… and Privacy?
Hegemony at Play in ALA

Decency, security, and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy. Louis Brandeis, 1927

Fear...cannot be allowed to determine the policies and practices of the American Library Association, just as a practicing librarian should certainly never succumb to the censor for fear that his own salary or budget will suffer. If we believe in the importance of intellectual freedom, we must be willing to take risks in order to defend it. ACONDA Report, 1971

Privacy – a state of being for which one closes a door, steps a short distance away, hangs out the “Do not disturb” sign – is required for any communication

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not yet ready for public consumption, whether conveyed via scribbled note, telephone call, text message, or scrawled across a diary “PRIVATE, do NOT read! Mom, that means y-o-u!” One utters the phrase “May I have a private word?” and communicates an implicit expectation of trust to both the invited and the excluded (hopefully without offense to the later). Privacy, whether within the confines of one’s own skull, between two or more individuals, is a requisite condition for grappling with personal troubles, for the tentative working through of new ideas, for arriving at a decision, for implementing a plan. Extended to another or others as the need arises, privacy is a human necessity. Children will choose to be mute, to keep their thoughts private rather than risk ridicule, correction, or rejection. Adolescents refuse to share the day’s events with parents as being “none of their business.” Adults expect private communications to actually be private – for phone and internet lines not to be monitored, for bedrooms and boardrooms not to be bugged. Not that what is said and done in private is wrong, crazy, illegal, immoral, or secret, only that it is simply not yet ready for public consumption.

While an individual’s interest in and desire for privacy is largely a matter of personal predilection and situation, groups and societies have longstanding customs, traditions, and laws that define and protect individual and collective rights to privacy. The American Library Association (ALA), for instance, has a strong commitment regarding privacy rights, “In a library (physical or virtual), the right to privacy is the right to open inquiry without having the subject of one’s interest examined or scrutinized by others.” (ALA Policy B.2.1.16)

The roots of these commitments to privacy reach back into history and became legally codified in the U.S. Constitution, specifically in the Fourth Amendment of the Bill of Rights, which states,

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrant shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and person or things to be seized.

According to John Adams, second president of the United States, a speech delivered in the council chambers of Boston’s Old Town Hall in February 1761 by James Otis against “writs of assistance” was the fuse that lit the fire of the American Revolution. Writs of assistance, vague search warrants containing no information as to what was being searched for or toward whom the search was to be conducted, were the bane of colonial life, direct attacks on personal privacy. In the 6th century C.E., the Roman emperor Justinian coined the phrase “a man’s home is his castle” giving expression to a sentiment carried down through the centuries that many consider natural, inviolable. The reality of home
as castle has, of course, been an altogether different matter given predilections of authorities at any given point in history – including today.

Privacy of mind, body, and place turn out to be universal, albeit differently expressed and enforced, to all human cultures. Every human possesses the privacy of her or his own thoughts, and usually enjoys the privacy of communications with at least one other human being. Privacy regarding the body, and bodily functions, varies widely with some bodies completely hidden. Everywhere rules exist as to whom, under what conditions, and to what extent one body may be seen or touched by another. Privacy regarding place also varies widely, and is likely rooted in our evolutionary past, in the lives and customs of mammalian ancestors who marked what they considered their territory and either invited, tolerated, or attacked trespassers. After all, if one can judge by the yaps and growls emitted from behind picket fences and closed apartment doors, a dog’s home is as much his castle as a man’s.

Not surprising then that the lived experience of American colonists in the second half of the 18th century had them fuming mad when King George’s men would pop up at will with their writs of assistance forcing entry into the homes of soon-to-be revolutionaries.

Adams, a newly-minted lawyer in 1761, heard Otis’ speech along with his friend Samuel Quincy, and in 1817 wrote of the experience in a letter to another friend,

The scene is the Council Chamber in the Old Town House in Boston... Otis was a flame of fire!...with a promptitude of classic allusions, a depth of research, a rapid summary of historical events and dates, a profusion of legal authorities, a prophetic glance of his eye into futurity, and a torrent of impetuous elegance. He hurried away everything before him. American independence was then and there born; the seeds of patriots and heroes were then and there sown, to defend vigorous youth. ... Every man of a crowded audience appeared to me to go away, as I did, ready to take arms against Writs of Assistance. Then and there was the first scene of the first act of opposition to the arbitrary claims of Great Britain. In fifteen years, namely in 1776, he grew up to manhood and declared himself free. (Dash 2004, p. 39)

In the aftermath of the American Revolution and ratification of the Constitution, people realized that a statement establishing the rights of citizens was necessary as a counterbalance to any abuse of authority by the new democracy. Few were ready to place complete trust in those empowered by the U.S. Constitution no matter how well-defined the checks-and-balances of that document. Thus the Bill of Rights, the first ten amendments to the Constitution were debated, refined, and instituted.
Although an ardent belief in the sanctity of one’s home and belongings is a political inheritance of every U.S. citizen, the application and interpretation of Fourth Amendment rights have been uneven over the course of the past nearly two-and-a-half centuries. Nonetheless, within librarianship the profession not only recognizes the value to individuals and to society of the right to privacy, but along with other professions – doctors, social workers, lawyers – declares a strong commitment to patron confidentiality. ALA’s policy statement on confidentiality is as follows,

Confidentiality exists when a library is in possession of personally identifiable information about users and keeps that information private on their behalf. Protecting user privacy and confidentiality is necessary for intellectual freedom and fundamental to the ethics and practice of librarianship. (ALA Policy B.2.1.16)

Librarians treat as confidential library users’ reading, viewing, and listening of library resources. What a person uses of a library’s collections is that person’s business only. A teenager’s reading of materials dealing with sexual identity, an entrepreneur’s research into the feasibility of a new business, a pre-2013 Seattleite’s curiosity on the cultivation of marijuana, all three trust the librarian not to share their reading and research queries with parents, competitors, police. Indeed, librarians have made headlines in recent years by insisting on proper search warrants on the occasions when local authorities and the FBI have demanded patron records. Some have gone to court. As a profession, privacy rights and the commitment to confidentiality are taken seriously.

Privacy, of course, is not the same as confidentiality, and neither are the same as secrecy, all three of which figure into the story of Edward Snowden and the ALA.

Confidentiality concerns both informal and formal agreements between individuals and/or institutions. Confidentiality can be a personal promise or legal agreement between parties involved to keep private something (usually information) shared privately. Doctors, journalists, lawyers, therapists, and librarians protect the privacy of patients, sources, clients, and users via practices and values establishing confidential relationships. Sometimes law overrides agreements of confidentiality as when a teacher breaks a promise to a student when keeping the confidentiality might endanger the student or others. Teachers are “mandatory reporters” in such instances, and can be held legally liable if they did not report an endangering situation communicated by a student despite the promise of confidentiality. Librarians treat information regarding patron borrowing and accessing records as confidential just as a doctor treats a patient’s medical information. A person’s reading and internet surfing habits are their business, no one else’s – unless, of course, “probable cause” warrants the breaking of confidentiality.
Privacy is a human need, confidentiality is an agreement, and secrecy relies on both, but is an entirely different matter. The philosopher Sissela Bok, describes secrecy as follows,

Secrecy is as indispensable to human beings as fire, and as greatly feared. Both enhance and protect life, yet both can stifle, lay waste, spread out of all control. Both may be used to guard intimacy or to invade it, to nurture or to consume. And each can be turned against itself, barriers of secrecy are set up to guard against secret plots and surreptitious prying, just as fire is used to fight fire. (Bok p. 18)

Bok defines secrecy as *intentional concealment*, and insists on its ethical neutrality – some secrecy is good, some is evil, while other secrets are neither. Secrecy generates high excitement in the minutes leading up to ALA’s midwinter book award announcements; the secret identity of a donor to the Spectrum Scholarship or the Freedom to Read Foundation elicits deep appreciation but no high emotion; while other secrets, like the NSA’s monitoring of telephone and internet communications, generate fury among some and approval among others. Privacy and confidentiality are essential in the entire process of intentional concealment, from generation, to development, to maintenance, to revelation (or not), but the three are not the same. Not every private moment is confidential or secret, not every confidence is secret it’s just confidential. With these distinctions in mind, let us turn to the purpose of this essay, and the conference at which Edward Snowden, privacy, secrecy, and ALA crossed paths. In presenting the case of the fate of a resolution dealing with Edward Snowden at ALA Council we have a quintessential example of hegemony at work within librarianship – hegemony being the establishment and maintenance of political power structures.

**When the Commander-in-Chief Speaks, People Listen**

In late-June 2013, ALA members poured across the thresholds of Chicago’s McCormick Place Convention Center, passing playful fountains squirting a Morse Code of watery arcs along the airy lobby. The main rush of members flowed eastward and upward toward the exhibit hall, conference programs, coffee, while a small tributary briefly branched southward entering the cavernous room selected by ALA conference planners for the meetings of ALA Council. Over the course of the next four days, the issue of privacy played center stage in this room for a few hours – in public, and in private. Matters of secrecy lay everywhere, in the shadows, between whispers, on the front-page of the *Tribune*, tripping tantalizingly around exhibit hall surprises and out the doors of book prize committees.
Council is the governing body of ALA with one-hundred and seventy-three elected members representing either the membership at-large, one of ALA’s divisions or roundtables, or a state or territorial library association. Meetings of Council, three at each midwinter meeting and annual conference, are chaired by the association’s president with assistance from ALA’s executive director, a parliamentarian, the Council Secretariat, and, as need arises, by legal counsel, finance officer, the Washington Office, and other association staff and members. These individuals assist in the multi-faceted work of Council which includes establishing policy, budgetary matters, receipt of committee reports with action on report recommendations, establishing special task forces and committees, electing Council members to the Executive Board and other governance positions, and considering resolutions brought to the body via either ALA membership meetings or by members of Council itself.

On the morning of June 30, Council members, ALA staffers, members of the library press, and others interested in the work of Council filtered into the room. Councilors found seats at the long rows of tables, the curious and interested others took chairs in areas set aside for observers and special guests, while those presiding over the meeting found their places on the dais between two huge projection screens used for meeting identification, powerpoint presentations, the occasional video clip, and, primarily, for closed captioning for the hearing impaired.

Seats found, territories claimed with sweaters or jackets, iPads, Council portfolios, the day’s copy of CogNotes or the Chicago Tribune, maybe a coffee cup (disposable from Starbucks, reusable from home), councilors and visitors alike lined up at tables along the back wall to collect documents for the morning session. To assist in the organization of copious amounts of paperwork, agendas and documents are copied onto different colored paper for each session. Because this Chicago conference led up to the Fourth of July, session I, II, and III documents were printed on pink (in lieu of red), white, and blue paper respectively.

Latecomers to Council that morning arrived to see President Obama addressing the audience via video-clip on the two huge projection screens right and left of the dais where special guest Jackie Garner, acting director of Region 5 for the U.S. Department of Health and Human Services (HHS), stood.

Garner had just spoken making a personal appeal to the governing body of the association before heading back to the exhibit hall to reach out to thousands of conference attendees as HHS launched, finally, after decades of failed attempts, rancorous national debate, and broad public demand, a national health care insurance program. “Thank you all for everything you do to inform, advise, and assist everyone who walks through your doors,” said Garner, then continued:
As acclaimed author Neil Gaiman has said, “Google can bring you back 100,000 answers, but a librarian can bring you back the right one.”…

Public libraries are unique local assets, not only a source for books and information, but a trusted community resource. Libraries are where people go to ask questions and find answers, and informing, educating and aiding patrons to discover and discern something new. That’s what librarians do each and every day. That’s why having you as our partners helping ensure that everyone is better able to understand and enroll in the health insurance marketplace is so invaluable. (ALA Council, 2013a)

Garner invited audience members to visit the booth for the launch of the new website healthcare.gov and call center – the public’s portal to affordable health insurance – and to consider participation in HHS training to provide enrollment assistance. “You as the American Library Association are the first group we are coming to during our launch week, as we know that librarians are essential to the American public as they seek information about the marketplace and the Affordable Care Act.” She then introduced the video of President Obama’s appeal for assistance,

I know that the President is also very grateful for your engagement, and I am now happy to be able to share with you a few words of appreciation from him for the work you, as librarians, are doing and will help us with your communities, as well as his challenge to do whatever it takes to make sure everyone knows what the new healthcare law and the new insurance marketplace means for them. (ibid)

What followed was a canned speech, directed at a generic audience, no mention of libraries or librarians, but nonetheless warm words of thanks from the President to all who would assist citizens to understand and avail themselves of the new health care insurance system. Within a matter of days, the HHS website and call centers collapsed, unprepared for the volume of site and phone traffic, leading to scandal for the Obama administration and website developers, but that is another story altogether.

The Affordable Care Act wasn’t the only thing on President Obama’s mind in June 2013. He was also caught up in the scandal of the National Security Agency’s (NSA) indiscriminate violation of the privacy of U.S. citizens revealed by Edward Snowden the first week of June. On the 21st the Obama administration filed charges against Snowden under the Espionage Act of 1917 (Scott 2013).
Birth of a Resolution

On June 6, 2013, The Guardian began a series of articles revealing massive surveillance of internet and telephone communications by the NSA of the U.S. public. On June 9th the paper revealed the identity of the NSA contract employee who leaked documentation of the programs. Edward Snowden, a 29-year-old U.S. citizen working for NSA contractor Booz-Allen Hamilton had been employed by NSA, the CIA, and Dell, working in increasingly sensitive positions in Maryland, China, Switzerland, Japan, and Hawaii. Over the course of a 9-year period, he became disillusioned by the methods and activities of the CIA and NSA. In interviews with Guardian reporters he said, “Much of what I saw in Geneva really disillusioned me about how my government functions and what its impact is in the world. I realized that I was part of something that was doing far more harm than good.” (Greenwald 2013a)

One Geneva experience involved a CIA agent who, in working to recruit a Swiss banker for some type of covert operation, got him drunk, assuring the intoxicated banker that he could drive home. When the banker was arrested for drunk driving, the CIA agent came to his rescue, thus establishing a relationship of obligation that ultimately led to the successful recruitment of this Swiss citizen. While such an episode might be enjoyed with popcorn in a movie filled with thrilling, action-packed espionage, in real life Snowden apparently found it distasteful, immoral, and believed aspects of the incident to be criminal according to international law.

A young, white, patriotic, and intelligent American, Snowden found himself in a crisis of conscience, discovering that intelligence community operations were not conducted according to moral, ethical, or legal standards that he valued, but instead intelligence operatives and operations often ignored, even flouted, standards and laws. In a state of disillusionment, Snowden took momentary refuge from the predicament in which he found himself in the hope offered by the 2008 election of Barack Obama, fully expecting the new administration to institute reforms to security agencies. When it became clear that reforms were not on President Obama’s agenda, Snowden decided he needed to act on his own and took a job at Booz-Allen Hamilton with the express purpose of gathering evidence – and blowing-the-whistle – on NSA’s criminal and unconstitutional actions. The image below is one of the top secret documents released by Snowden and published in The Washington Post on June 6 (Gellman and Poitras 2013). It is a timeline of agreements made between NSA and internet service providers to funnel customer communications to the NSA.5

Shortly following revelations of both NSA surveillance and Snowden’s identity, Tom Twiss, government documents librarian at the University of Pittsburgh, posted an e-mail calling for interested volunteers to assist in the
crafting of a resolution regarding Edward Snowden in time for the rapidly approaching ALA conference in Chicago. For several years, Twiss had been active in the Social Responsibilities Round Table’s International Responsibilities Task Force (SRRT and IRTF), and was an old hand at the resolution process. In 2004 he was both IRTF chair and SRRT’s liaison to the Government Documents Round Table (GODORT), which at their meetings in Orlando considered and passed a “Resolution on Securing Government Accountability throughWhistleblower Protection.”

Initiated by the Government Information Subcommittee of ALA’s Committee on Legislation, and endorsed by the Federal and Armed Forces Libraries Round Table, the Intellectual Freedom Committee, and GODORT, the whistleblower resolution was approved by ALA Council. Somehow, the Policy Monitoring Committee failed to include text from this resolution in the ALA Policy Manual, as sometimes happens. A search of the online manual turns up nothing with keywords “whistleblower” or variations. Given the absence of policy manual language, the full text of this resolution follows. Reading through the “whereas” clauses, one cannot help but recognize the strength of the statement and the recognition that those who demand government accountability need support and recognition for their courage and willingness to defy authority for the greater public good when they “blow the whistle” on government wrongdoing.

One of the documents released by Edward Snowden showing a timeline of data-mining agreements between NSA and the corporations listed
Resolution on Securing Government Accountability through Whistleblower Protection

Whereas, the American Library Association has a long standing policy of supporting free speech by all, including government employees; and

Whereas, open and unfettered access to information by and about government is a basic tenet of a democratic society and crucial to the public’s ability to hold government accountable; and

Whereas, security concerns in today’s environment have resulted in increased restrictions on access to public, unclassified government information, and actions of whistleblowers may be the only means of exposing problems in government; and

Whereas, whistleblowers often have alerted Congress, government officials, and the public to abuse, fraud, and waste in governmental activities; and

Whereas, libraries and librarians have a long tradition of assisting the public in learning about the activities of their government; and

Whereas, government employees who have uncovered abuse, fraud, and waste and become whistleblowers have suffered intimidation, loss of security clearance, reduced benefits, or loss of employment; and

Whereas, legislative efforts to strengthen governmental accountability through enhanced protection for whistleblowers, such as the “Paul Revere Whistleblower Act,” are pending in Congress; therefore be it

Resolved, that the American Library Association affirms its support for accountable government and the role of whistleblowers in reporting abuse, fraud, and waste in governmental activities; and be it further

Resolved, that the American Library Association supports legislative efforts to provide increased support and protection for whistleblowers in the Federal government. (Committee on Legislation 2004)
Concern within ALA regarding whistleblowers is not limited to this one document. Indeed, one of ALA’s major divisions, United for Libraries, whose mission focuses on support and promotion of the work of library trustees, has on its website a “Sample Whistle Blower Policy.” The sample policy puts the library that adopts such a policy on record as prohibiting “fraudulent practices by any of its board, members, officers, employees, or volunteers.” Additionally, the library agrees to refrain from retaliation against any employee who reports conduct that she or he “believes in good faith to be a violation of the law.” To reinforce support of whistleblowers, the sample policy suggests that the library “may take disciplinary action (up to and including termination) against an employee who in management’s assessment has engaged in retaliatory conduct in violation of this policy.” (United, 2011)

ALA policy is made via two basic avenues. A committee established by council for some specific purpose (either a standing committee or a special one) can issue a recommendation, which Council then considers, and approves (or not), usually with little or no amendments. The process seldom takes much time, as committee members are generally trusted with the charge given them. The other route is for a resolution to be brought to Council’s agenda either via passage at an ALA membership meeting, or through sponsorship by at least two members of Council – the mover and a seconder. In either case, the resolution comes into existence because someone, somewhere, has a concern about which they believe ALA should take action. The individual or group either already knows about the resolution process or has been informed about it by someone who does. Often a person new to the process will be shepherded through by an experienced colleague. In the case of the Edward Snowden resolution, the initiators were old hands at the process. (See ALA Policy Manual for guidelines on resolution process.)

Given ALA’s official policy regarding privacy, confidentiality, and whistleblowers, prompt action on the case of Edward Snowden was to be expected. The first two are encoded in ALA’s Code of Professional Ethics for Librarians which states, “We protect each library user’s right to privacy and confidentiality, with respect to information sought or received and resources consulted, borrowed, acquired, or transmitted.” (American Library Association 1995, p. 45)

When the public was made aware of NSA’s sweeping, indiscriminate monitoring of everyone’s communications, it is no surprise that some librarians were ready to “petition the government for a redress of grievance.” The NSA had no probable cause to monitor communications of the entire population (including library users and librarians), and received no warrants to do so for the vast majority of the victims of their datamining. Edward Snowden believed that NSA actions violated the Constitution. Had he been an employee or volunteer at a library that functioned according to a United for Libraries-style
whistleblower policy, a prompt investigation of his concerns would have been required, without retaliation against him.

However, despite federal laws protecting whistleblowers, Snowden had cause to act as though he most certainly would be retaliated against. For him to believe and behave otherwise would have strained credulity. One week following the revelation of Snowden’s identity, USA Today interviewed three former NSA whistleblowers – Thomas Drake, William Binney, and J. Kirk Wiebe. Drake came to the NSA from the CIA in 2001, serving as a senior executive until his resignation in 2008. Binney worked as a cryptologist for 40 years until he retired in 2001. Wiebe spent 30 years at NSA until he too retired in 2001. All three men tried through established channels to bring NSA wrongdoing to light, only to encounter resistance and retribution along the way. In 2002, Binney and Wiebe informed Congress of NSA surveillance and contractor corruption. In 2007, the FBI raided the homes of both men on the same day. Binney, held at gunpoint, was forced to watch with his wife and child as their home was ransacked by FBI agents. Neither men were ever charged with any crime. Drake was indicted for espionage in 2010, but the charges were ultimately dropped in a plea bargain. He pleaded guilty to a misdemeanor of “exceeding authorized use of a computer” and served one year of community service and probation.

In the June 16th interview, USA Today asked these three men what treatment Snowden could expect from the federal government:

Binney: Well, first of all, I think he should expect to be treated just like Bradley Manning (an Army private now being court-martialed for leaking documents to WikiLeaks). The U.S. government gets hold of him, that’s exactly the way he will be treated.
Q: He’ll be prosecuted?
Binney: First tortured, then maybe even rendered and tortured and then incarcerated and then tried and incarcerated or even executed. (Eisler 2013)

While the Obama administration demanded Snowden’s extradition to face espionage charges, government watchdog groups and concerned citizens were demanding he be treated (and protected) as a whistleblower. On the same day as the USA Today interview, Mike Marlin member of Council, SRRT and PLG, posted to alacoun (the listserv of ALA’s Council) a link to a statement issued by the Government Accountability Project (GAP) regarding Snowden, which made eight points regarding his actions then elaborated on each:

I. Snowden is a Whistleblower
II. Snowden is the Subject of Classic Whistleblower Retaliation
III. The Issue is the Message and Not the Messenger
IV. Pervasive Surveillance Does Not Meet the Standard for Classified Information

V. The Public has a Constitutional Right to Know

VI. There is a Clear History of Reprisal Against NSA Whistleblowers

VII. We Are Witnessing the Criminalization of Whistleblowing

VIII. In the Surveillance State, the Enemy is the Whistleblower

The GAP statement concluded, “…secrecy, retaliation and intimidation undermine our Constitutional rights and weaken our democratic processes more swiftly, more surely, and more corrosively than the acts of terror from which they purport to protect us.” (GAP 2013)

On June 17th, councilor Ed Garcia, responding to Marlin’s post wrote on the ALA council listserv, “I hope there is a resolution being crafted on this topic.” Shortly after, SRRT councilor Al Kagan, knowing that Twiss was drafting a resolution, replied that one was “coming soon” thereby giving all Councilors a heads-up that the matter would be on Council’s upcoming agenda.

Twiss was joined in the writing of the Snowden resolution by Jim Kuhn, Fred Stoss, and Mike Marlin, and they drew on yet another longstanding ALA policy to support their resolution. In 1971, Council established a policy regarding government intimidation. The policy reads,

The ALA opposes any use of governmental prerogatives that lead to the intimidation of individuals or groups and discourages them from exercising the right of free expression as guaranteed by the First Amendment to the U.S. Constitution. ALA encourages resistance to such abuse of governmental power and supports those against whom such governmental power has been employed. (ALA Policy Manual, 53.4)

The policy on government intimidation has a most interesting history. Initiated by Zoia Horn, head of Reference at Bucknell University’s library in Lewisburg, Pennsylvania, with assistance from colleagues Pat Rom and SRRT activist Jackie Eubanks, the resolution was prompted by Horn’s own encounters with the FBI and intimidation by the grand jury process. Writing about the resolution in her memoir Zoia! Memoirs of Zoia Horn, Battler for the People’s Right to Know, Horn describes,

The resolution asserted that the “freedoms to think, communicate, and discuss…are essential elements of intellectual freedom, that these freedoms have been threatened by our federal government’s use of informers, electronic surveillance, grand juries, and indictments….”
And it asked that ALA recognize these dangers to intellectual freedom, go on record against the use of these grand jury procedures “to intimidate anti-Vietnam War activists and people seeking justice for minority communities,” deplore and condemn the misuse of “the Conspiracy Act of 1968 as a weapon against the citizens of this country who are being indicted for such overt acts as meeting, telephoning, and discussing alternative methods of bringing about change and writing letters.” It added two ethical provisos that ALA assert the confidentiality of the professional relationship of librarians to the people they serve and that “no librarian would lend himself to a role as informant, whether of revealing circulation records or identifying patrons and their reading habits.” (Horn 1995, p.166)

Although the resolution met with some resistance during discussion at Council, with some councilors attempting “to shunt it off to a committee,” (ibid) the Resolution on Government Intimidation passed and became ALA policy. Despite the association’s official opposition to government intimidation, the following year the ALA Executive Board issued a statement that caused Horn deep distress.

Policy notwithstanding, in the following year (1972), when I had challenged the government’s attempt to intimidate critics of the war in Vietnam, and was sent to jail as a consequence, the ALA Executive Board refused to support my stand. Moreover, they issued a public statement of their refusal without even asking me if I wanted their support or asking me to present my reasons for declining to testify [at grand jury hearings in the Harrisburg Seven case]. Their statement, which is actually a condemnation of my decision as well as a refusal to support, was published in American Libraries, which is sent to all 50,000 members. (ibid)

Although ALA policy “encourages resistance to such abuse of government power” one can see from Horn’s experience, that official policy does nothing to guarantee that actual support might be forthcoming from the Association. However, there are ALA members, such as Horn and Twiss, who dedicate themselves to holdings the Association accountable for abiding by its policies.

Given this paper trail of ALA positions related to government accountability, the right to privacy, the confidentiality of patron records, whistleblower protections, and opposition to the use of government intimidation, it should not have come as a surprise when the Snowden resolution was presented at the ALA Membership Meeting in Chicago, on June 29, and passed by a considerable majority. But just as the Fourth Amendment itself has not been
erased from the Bill of Rights, the commitment of police, lawyers, and judges to act in accordance with the law has varied over the years, and court rulings have weakened protections from unwarranted searches and seizures, due, in part, to the failure of citizens to hold authorities accountable for violations of the law. Similar fickleness is evidenced in ALA by Council and Executive Board prevarication on actions implementing stated values and commitments. Times change, so too the willingness of individuals and groups to question authority, to hold it accountable, and the passage of the Snowden resolution did, indeed, come as a surprise to its writers and movers. Within the context of a general climate of conservatism nationally, colored by budget cuts, and heightened “security” concerns, a decade-long “war on terror,” and continuing economic woes, activists within ALA expected little support for the Snowden resolution, especially in light of recent failures of similar resolutions regarding Army private Bradley Manning, who had released huge quantities of classified material documenting U.S. war crimes to Wikileaks.

Pass it did, and with passage by the membership meeting, the Snowden resolution was automatically placed on the Council I agenda for the following morning. On June 30, in its first session, Council itself passed the resolution. Discussion was brief, and there was no debate.

Jim Kuhn, mover of the resolution, spoke to it,

We, for about the last decade, have been in this situation, where access to the courts on issues related to domestic surveillance and privacy has been extremely limited. Over and over again, individuals and organizations and companies have been told they do not have standing to bring suit against domestic surveillance and broad attacks on privacy [due to lack of documentation]. Meanwhile our access to Congress has been extraordinarily limited. The oversight committees (we have learned) have been limited, lied to. We’ve had senators come out of closed-door hearings saying, “if only the American people knew what was happening in our name you would be outraged.” Meanwhile those among us who are most effected by these laws, in particular Section 215 of the USAPATRIOT Act, are gagged from even speaking for good or ill about these pieces of legislation [impacting] our libraries and our library activities – even to our elected representatives. So we don’t have access to the courts, we don’t have access to Congress that is effective. Meanwhile the executive branch seems to have gotten religion about this issue in the past few weeks, but in fact if you compare the comments of President Obama when he was a candidate for Senate, when he was a candidate for president, and now when he is commander-in-chief, you’ll see that his position on the issues of domestic surveillance and accountability for violations of privacy by government officials have
been moving very much against us. Quite recently, the White House spokesperson said we should be engaging in a broad national debate about these issues, but, in fact, that national debate has not been brought forward by the executive branch. Under such circumstances, when the courts, the Congress, the executive branch, and the press are of no help – in fact, the press has been under an unprecedented level of attack by governmental intimidation – we need whistleblowers. Actions taken by Edward Snowden have given us an extraordinary opportunity to make important strides in public policy that relates fundamentally to [librarianship’s] core values of privacy, open access to government information, over-classification, an informed electorate, and this [the Snowden resolution] is an opportunity to make it clear to folks who are taking great personal risk in revealing important details about what is going on in our name, that we do stand with them on the basis of our core values as a profession dedicated to an informed electorate and the role of an informed electorate in a democracy. Thank you very much. (American Library Association 2013a)

Ann Crewdson, councilor-at-large, spoke next, describing conversations sparked by Snowden’s revelations she had with her family.

Not only has this [incident] sparked dialogue nationally, but it has also allowed me to talk with my own family and my own teenagers about their privacy, their practices on Facebook and social media, and I think that’s very good for a generation that seems to be more and more, being that they grew up in a ubiquitous surveillance society, that they’re more complacent that we’d like them to be, because it leads to many things in the future to such as employment and their health insurance, and I’ve explained it to [my daughter] that every FB like she does, and everything she does online, it’s a built-up datamine, and that’s like a doppelganger, and when I pointed that out to her, I said, what if you knew there was a doppelganger out there and that’s the thing that determines the rest of your life? She was absolutely floored by that. (ibid)

Nann Blain Hilyard, councilor at large, then expressed appreciation and approval at the removal in the original resolution of a 2nd resolved clause that would have put ALA on record as opposing “any attempts by the United States government to extradite or prosecute Edward Snowden.” After evening conversations amongst Council members regarding the resolution, its movers decided to delete the original 2nd resolved, thinking approval might prove possible without it. Hilyard said, “I appreciate the resolved clause that does not pass any judgment on Edward Snowden, it simply identifies him, and the bigger
part is that we are opening up this dialogue, but aren’t passing any judgment on him.” (ibid)

At this point, any Council member who objected to the resolution, or had questions, or needed clarification would have gone to an open microphone, identified him- or herself, and stated their mind. This did not happen. Perhaps those who opposed the resolution simply assumed it would fail. Perhaps, in the face of the resolution’s supporting documentation, opponents could find no ethical way to argue against the resolution. Privacy rights, after all, have been a leading concern of ALA’s since the 1930s. Between the resolution’s passage at the membership meeting and the first session of Council, opponents had an entire afternoon and evening to formulate persuasive arguments, or even to decide to refer the matter to a committee, or to table it for a future meeting, but no opposing arguments or parliamentary maneuvers were forthcoming. Seeing no other members of Council at the microphones, the chair called for a vote and the resolution was approved with 105 in favor, 39 opposed, and 10 abstaining.

Resolution in support of whistleblower
Edward Snowden

Whereas, since 1939 the American Library Association (ALA) has affirmed the right to privacy in its Code of Ethics, which currently states, “We protect each library user’s right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted”;

Whereas in “Principles for the Networked World” in 2002 ALA included among the “principles of privacy” the fact that “privacy is a right of all people and must be protected in the networked world” and the recognition that “the rights of anonymity and privacy while people retrieve and communicate information must be protected as an essential element of intellectual freedom”;

Whereas in 2002 in “Privacy: An Interpretation of the Library Bill of Rights” ALA recognized that “privacy is essential to the exercise of free speech, free thought, and free association”;

Whereas in 2003 in its “Resolution on the USA PATRIOT Act and Related Measures that Infringe on the Rights of Library Users” ALA criticized the “USA PATRIOT Act and other recently enacted laws, regulations, and guidelines” on the grounds that they “increase the likelihood that the activities of library users, including their use of computers to browse the Web or access e-mail, may be under
government surveillance without their knowledge or consent” (CD#20.1, 2003);

Whereas in 2004 ALA passed a “Resolution on Securing Government Accountability through Whistleblower Protection” affirming its “support for accountable government and the role of whistleblowers in reporting abuse, fraud, and waste in governmental activities” (CD#20.7, 2004);

Whereas in 2005 in its “Resolution on Radio Frequency Identification (RFID) Technology and Privacy Principles” ALA insisted that “user privacy and confidentiality has long been an integral part of the mission of libraries” (CD#19.1, 2005);

Whereas in 2008 ALA passed a “Resolution Commending the FBI Whistleblower Who Exposed Abuses on the Use of Exigent National Security Letters” which called on Congress to “protect the rights of whistleblowers against retaliation” (CD#20.5, 2008);

Whereas since 2010 ALA has sponsored “Choose Privacy Week,” an initiative “that invites library users into a national conversation about privacy rights in a digital age” and a campaign that “gives libraries the tools they need to educate and engage users, and gives citizens the resources to think critically and make more informed choices about their privacy;

Whereas Edward Snowden, a technical specialist for contractors employed by the National Security Agency, has admitted to providing classified information to reporters for The Guardian and The Washington Post newspapers;

Whereas this information revealed that, under a FISA court order issued in April 2013, the National Security Agency is collecting the telephone records of millions of U.S. customers of Verizon;

Whereas this information further revealed that since 2007 under its PRISM program the NSA has been collecting huge quantities of data on internet usage, including internet search histories, email, video and voice chat, videos, photos, voice-over-IP chats, file transfers, and social networking details, from internet service providers in the United States;
Whereas Edward Snowden has explained that his “sole motive” in revealing this information was “to inform the public as to that which was done in their name and that which is done against them”; and

Whereas Edward Snowden is now facing extradition and prosecution for releasing this information; now, therefore be it

Resolved, that the American Library Association (ALA) recognizes Edward Snowden as a whistleblower who, in releasing information that documents government attacks on privacy, free speech, and freedom of association, has performed a valuable service in launching a national dialogue about transparency, domestic surveillance, and overclassification.

The vote on Council I was met with high-fives, smiles, and congratulations after the meeting by those who’d worked on the resolution. The majority vote to recognize Snowden as a whistleblower was an informed and considered act, all those council members who had attended the previous day’s membership meeting had ample opportunity to think about and discuss with others the position they would take on the resolution. Evidence of this was in the changes made to the resolution as described by Hilyard. Not one objection was voiced. Such vindication of an act of conscience was tremendously gratifying. ALA Council had done what the federal government refused to do – recognize Edward Snowden as a whistleblower. Not only that, but had commended him for his service to the nation.

Alas, some joys are short-lived, and such was to be the fate of the Snowden resolution.

Before moving on to the ultimate, and unprecedented, demise of the resolution, we should pause for a moment to consider the larger context of this statement in order to see how an ostensibly democratic forum, a platform for free speech, can be swayed in another direction, so that a position challenging authority, is brought into alignment with authority. In other words, how an elite group ensures that the voice “says the right thing.”

The bureaucratic maneuvering that followed on Council overturning the Snowden resolution is a prime example of Noam Chomsky’s observation,

From a comparative perspective, the United States is unusual if not unique in its lack of restraints on freedom of expression. It is also unusual in the range and effectiveness of the methods employed to restrain freedom of thought. The two phenomena are related. Liberal democratic theorists have long observed that in a society were the voice of the people is heard, elite groups must ensure that that voice
says the right things. The less the state is able to employ violence in defense of the interests of elite groups that effectively dominate it, the more it becomes necessary to devise techniques of “manufacture of consent.” (Chomsky 2002, p. 19)

At the time of this debate, the federal government was calling Snowden a traitor, demanding his extradition for prosecution under the Espionage Act of 1917. The press largely echoed these characterizations. Whenever ALA Council passes a resolution, it gets distributed to the press, and to others concerned with the issue at hand. A copy of the Snowden resolution was destined for the White House. In these days of instant communication, word got out immediately that Council had taken the position that Snowden was a whistleblower and that he deserved appreciation for his actions, and just as instantaneously opposition to the resolution rallied, and found support from at least one council member who voted against it. Why? Was it just sour grapes? Poor losers? As it turned out the challenger of the vote was a member of the ALA Executive Board, the elite of the elite. Not only that, but every member of Council serving on the Executive Board at the time, except Dara Ho, Sara Kelly Johns, and Jim Neal voted against the resolution. So why hadn’t any of them spoken against it? And, what does it matter what ALA says about Edward Snowden?

**Death of a Resolution**

Council’s passage of the resolution would not have impacted Snowden’s situation, although the resolution’s message of recognition and solidarity might have slightly lightened the emotional burden of his exile and vilification. Nor would ALA’s acknowledgement of Snowden’s actions have tempered the government’s pursuit of him, but the moral weight of this support would have been tremendous. ALA has influence with the public. Everyone loves librarians, and here was ALA, the professional association of favorite librarians across the nation not only recognizing Snowden as a whistleblower, but declaring that he’d performed a valuable service. Recall that not much more than an hour prior to Council’s vote on this resolution, Jackie Garner of the U.S. Department of Health and Human Services had referred to libraries as a “trusted community resource” – emphasis being Garner’s own. Libraries honor the trust of their communities by providing reliable information and protecting users’ privacy.

There were, of course, 39 votes in opposition. Following Council I, there must have been at least one private conversation, perhaps even some frantic politicking in Chicago the evening of June 30th, because the first action the following morning at Council II was a motion to reconsider the Snowden resolution and to refer it to the Intellectual Freedom Committee (IFC) and Committee on Legislation (COL). This motion to reconsider was unprecedented,
coming only one day after the resolution’s passage. (Only at one other time was a resolution approved by Council reconsidered. Six months after passage, a resolution regarding censorship in Israel and the Occupied Territories was rescinded.)

As the chair concluded reading Council’s agenda on the morning of June 31st, noting that under the 24-hour rule new resolutions on Bradley Manning, fossil fuel divestment, library services to communities in times of disaster, and prayer at ALA meetings had been placed on the day’s agenda, John A. Moorman, member of ALA Executive Board, stood at microphone number four and was called on to speak.

Moorman stated his wish that another resolution be added to the agenda, that the Snowden resolution be “reconsidered and referred to the Intellectual Freedom Committee and the Committee on Legislation.” Moorman, former director of the Williamsburg (VA) Regional Library and current consultant with Dominion Library Associates, had voted against the resolution the previous day, although he did not reveal his opposition to the audience, merely explaining that,

I am very concerned that our action taken yesterday did not come with due deliberation and with the consideration of recommendations from two committees that are essential to the operation of our organization, and we should hear their input before we take action.

Chair: Is there discussion? Oh [inaudible], so it’s on the agenda? I’ve added it to the agenda. Thank you. Is there other new business? Hearing no further discussion, I declare the agenda adopted. (American Library Association 2013b)

For Council consideration, resolutions are required to be submitted to the Council Resolution’s Committee 24-hours in advance. Had Moorman’s resolution met this requirement, it should have been printed on the agenda for Council II. It was not.

At the time, the addition of Moorman’s new resolution to the agenda was not questioned, probably in the belief that some clause in Sturgis allowed for no advance period for a resolution to reconsider previously approved items. Council II proceeded, and eventually the resolution to reconsider and refer reached the floor.

Members of Council take seriously their responsibilities as elected representatives to the body that establishes policy for the association. Generally speaking, councilors arrive at meetings having done their homework. SRRT Councilor Kagan had posted the original version of the Snowden resolution on June 23rd, a full week before it arrived on Council’s agenda. Had any council
members felt uninformed regarding any element of the Snowden resolution, most would have spoken up. Those opposing the resolution also had ample time to frame their arguments against it. Asking a question, requesting a point of clarification, making an amendment, moving to refer, to table, to close debate—all these parliamentary procedures are second nature to many, but the newest or shyest Council members, and are used with great regularity. As Hilyard’s statement the previous day indicates, the original resolution had been changed following passage at Membership to accommodate objections to the call for the federal government to refrain from persecution of Snowden, a compromise the movers were willing to make in order to gain support from their colleagues on Council.

As a seasoned councilor, indeed a member of the Executive Board, Moorman himself, knowing he opposed the resolution, should have raised his objections during discussion on the 30th. One can only speculate as to why he did not. Perhaps he wasn’t quite awake. Perhaps he assumed most councilors shared his opposition and therefore did not bother to speak, even to refer the resolution for committee review. Perhaps he was too embarrassed (or politically savvy) to openly acknowledge a wavering commitment to the privacy of American citizens—face-savingly easier after the fact to claim the resolution was passed without “due deliberation” than to stand on the floor of Council and explain his opposition to a resolution addressed directly to two ALA policies: privacy rights and support of whistleblowers.

Ordinarily, Moorman would most likely have had the good grace to accept the will of the body and allow the resolution to stand as the official opinion of ALA regarding Edward Snowden. Win some, lose some—all in a day’s work on ALA Council.

Moorman did not accept the will of the body, and when his resolution to reconsider and refer came to the floor, he offered the following explanation,

 Sometimes in Council we act in haste. As our procedures, as Bernie Margolis pointed out earlier are in process in order to get us total information in situations and to get recommendations from committees within the organization that are assigned this responsibility. On Monday, neither the Intellectual Freedom Committee nor the Committee on Legislation had had the ability to review and make recommendations. I do know they are meeting this afternoon and that they will bring something back to council tomorrow on this issue. I also feel it is very important that as we look at items that we discuss that we consider the implication of those items upon the ability of our Washington office to work with legislators and the ability of librarians in their community to effectively discuss issues from a neutral stance. This is the reason for this resolution, and I urge its adoption. (ibid)
Moorman’s position then was that (1) the vote the previous day was ill-informed, (2) the adoption of the Snowden resolution would negatively impact the Washington Office’s ability to work on behalf of ALA, and (3) the adoption of the resolution would similarly impact librarians’ ability to “discuss issues from a neutral stance.” We will later return to the first two of Moorman’s concerns, but the third can be dispensed with immediately. In regard to any of the issues raised by the Snowden resolution, none require a neutral stance. Librarianship is not neutral with respect to privacy rights, to the laws protecting whistleblowers, or to government intimidation. Indeed, a neutral position with respect to any of these matters would implicitly condone invasions of privacy, the persecution of whistleblowers, and any amount of intimidation. Indeed, neutrality would be in violation of ALA’s policy, values, and ethics. Librarians in their communities should be able and willing to advocate on behalf of privacy rights, whistleblower protections, and opposition to government intimidation. The fact that Moorman suggests librarians discuss such matters from a neutral standpoint calls into question his own commitment to them.

Jim Kuhn then spoke,

As the mover of CD 39 [the Snowden resolution] and a member of the Intellectual Freedom Committee, I stand here with some responsibility for which otherwise might appear as a procedural snafu or hiccup, but I have to say that responsibility is also shared by the calendar. It is extraordinarily hard, as we have seen this morning, to get full endorsement, to get full consideration. To get all the information we seek for these resolutions that come before this body with the 24-hour rule in place. That said, we did request that this be on the docket for Council II, it was in fact moved to Council I. Perhaps at that time I should have postponed deliberation. I did not, however, because in fact I was prepared to speak to it, and I did speak to it and I stand by what I said. The other thing I would like to say about that is, as an IFC member, I can report on extensive discussions about this resolution at some of our first meetings, discussion which influenced the version that came forward to Council yesterday. There was no vote by the IFC to endorse, and perhaps I should have asked and actually moved as an IFC member that the committee vote on this, to endorse or not endorse. And I take responsibility for that. But I have to say, it is very important for this organization to be able to act on matters of grave concern to us in a manner that does not continually put off action until subsequent conferences, particularly on time-sensitive issues such as this one. We had lots of debate. We had lots of input. It was passed at membership meeting, it was passed by Council yesterday, so I will be voting against referring this to IFC and COL. Thank you. (ibid)
The debate that followed was not a hashing-out of whether or not Snowden was a whistleblower who’d rendered a valuable public service. Rather it boiled down to a debate centered around ALA bureaucracy and whether or not certain committees have a better understanding of the issues than members of Council. Statements that follow, taken from the sound recordings of the session (American Library Association 2013b), are presented verbatim to give the reader the best possible sense of the debate.

Mario Gonzalez, just elected ALA Treasurer, thereby becoming a member of the Executive Board, had voted against the Snowden resolution the previous day. Speaking to the resolution to refer Gonzalez said, “These committees have the intellect, the resources, and the ability to give us more information than, I believe, we had when we voted on the original motion.”

Bobbie Newman, councilor-at-large, said, “I did vote in favor of this resolution yesterday, but in light of the information I’ve heard since then, I’m going to change my mind.” She gave no indication as to what further information she’d received.

Brian Schott, ALCTS division councilor, who had abstained from voting on the resolution said,

Yesterday before we said it was okay, I took a moment of silence and cursed Roberts [sic] for not allowing my abstention on this vote to be counted, and I abstained from it at the time because I was deeply uncomfortable with it and I actually welcome the proposed reconsideration and referral to IFC and COL and strongly support councilor Moorman’s recommendation.

Executive Board member Molly Rafael, who also voted against the resolution, commented,

I speak in favor of this motion. I am actually kicking myself for not, and frankly I’m thinking all of you who have been on Council for so many years should be doing the same thing, for not thinking of this [referral] when we were discussing the motion. We have committees that have taken issues from us, such as IFC and COL, and come back with resolutions that I think many of us have felt were much improved. I believe we will get reports back on this and I think the very fact that there are unintended consequences tells us that we should have been a little bit more deliberative, doesn’t mean we wouldn’t have passed it, but we should have been more deliberative. And I was just going to stand up here and say everything that councilor Gonzales said, because it was exactly what I felt at the same time. Thank you.
Charles Kratz, councilor-at-large who had supported the resolution said,

I certainly have no problem with it being referred, but if it does get referred today, the geniis out of the bottle because *American Libraries*, right now on my iPad here, already has it announced that we’ve supported it. It was tweeted yesterday. We live in a social media world. It was tweeted and on Facebook yesterday.

Dianne Chen Kaley, who also had voted in favor of the resolution the day before, spoke next,

I rise to second the motion because of three phrases important to council – prudent deliberation, thoughtful consideration, and unintended consequences. Yesterday during our deliberations the statement was made that the resolution did not pass judgment, but after more thorough discussion with the Washington Office and with councilors informally during the forum and throughout the conference, I believe this is in fact not true. It jumps to a decision, it paralyzes our lobbyists, and our Washington Office from working effectively with legislators. William Binney, a whistleblower who also disclosed details of NSA’s mass surveillance activities, stated in the press, after Snowden began leaking allegations that the U.S. was hacking into China “he was transitioning from a whistleblower to a traitor.” Imagine, after events continue to evolve and we learn more, as Snowden continues to release these classified documents he has removed from our country, that his status is determined to be both whistleblower and espionage traitor. How would you like to consider supporting a resolution with a resolved clause that the ALA recognized Edward Snowden as a whistleblower and traitor who in releasing information that reveals government attacks on privacy, free speech and freedom of the press has performed a valuable service in launching a national dialogue about transparency, surveillance, and over-classification. Just the addition of those two words makes me uncomfortable enough to urge you, if you have any concern, to please move this for reconsideration.

Kaley’s quote from Binney was accurate, although as Al Kagan stated immediately after she spoke, it was taken out of context. Kaley failed to note Binney’s comment that he himself did not know at the time of the interview whether or not Snowden had access to documentation regarding NSA spying on foreign countries, specifically China. (Readers are referred to the full *USA Today* interview, Eisler 2013.) Subsequent revelations showed that NSA was, indeed, monitoring the communications of even foreign heads of state.
Al Kagan, SRRT councilor,

The Social Responsibilities Round Table brought William Binney to our conference. Many people heard him speak, he is a man of great integrity. I believe that the quote that was just made [by Kaley] must be taken out of context. I ate dinner with the man, had long discussions with him, and don’t believe he would have said that. I really think we need to look at the effect of what the whistleblowers are doing. The whistleblowers in this case have shown that the NSA is monitoring all of our e-mail and all of our phone calls and more. William Binney told us about that. He didn’t have the documents, but he said that in his talk. Now that he has the documentation, this is now national news. Most Americans are offended by what the NSA is doing. ALA membership meeting was offended by what the NSA is doing, that’s why they voted to support what we said about Ed Snowden. We overwhelmingly passed this resolution in the Council, and I think it’s because the councilors are offended by the kind of Orwellian situation we have now in this country. To refer this back to committees that are not likely to even put Ed Snowden’s name in their resolution tomorrow would be a travesty, and I hope we don’t do it.

Diedre Conkling, councilor at large supported the Snowden resolution,

I’m against reconsideration and referral back to these committees, I think that, personally, I voted with full knowledge of the resolutions and what they meant and I think I read it very clearly and I’m very satisfied with my vote. I know that when we get the information back from the Intellectual Freedom Committee and the Committee on Legislation they’re going to send us something about we support open government, we support whistleblowers, we’re going to work on educating our members about these issues, and we will no longer be supporting a whistleblower. I was pleased that we were actually supporting a whistleblower, and I do not want to refer this.

Mary Biblo councilor at large another supporter,

Here we go again, debating an issue that is pretty clear. We are on record that we support whistleblowers, I think. But when we put a name to it, it seems to lose any kind of support for whistleblowers. Now I’ve been here for as long as Molly Rafael, maybe longer, [and know] what referral like this to a committee means. We used to have a treasurer and if they didn’t want this particular item to be brought to the floor,
his main role was to get up to say let’s refer this to BARC because it might have fiscal implications. I’m not saying you might do this with the Intellectual Freedom Committee, it might come out in support, but I’m simply against referral. I learned my lesson sitting here in Council for a number of years, what referral meant. Thank you.

Lauren Comito councilor at large,

I’m against this motion, we voted yesterday to support this, and in my case, I voted in support because of the effect it has on my patrons. I deal everyday with people who have to worry that they need a password on their Smartphone because they get stopped and frisked. I deal with women of middle age who are just dipping into Facebook, who are very concerned with their privacy and so I really thought about this when I voted and I think most of us really did because privacy is a deeply held value that we have as librarians. And that this man, whatever comes out later, whatever flaws he may have or whatever he does later, did provide us with a service. Did provide us with proof of what we knew was happening, but couldn’t confirm, that basically we’re just being listened to. And if for nothing else, that now we don’t have to explain what metadata is.

Jane Glasby, councilor at large and another supporter,

It think we’ve had a lot of discussion about this, we’ve been well-informed. I think we had a lot of documentation, the research that went in to the preparation of the resolution, all those whereas clauses referring back to all the legislation that we’ve passed, if you want to call it legislation, all the policy we’ve passed, so I think to say we don’t have the intellect and we have to send it on to another body for their smaller body of minds, their intellect, I think it’s a little insulting to ask, because I think we have thought about this issue and we are the policy making body, and we did think about it, and its timely and that to refer it back, we know what’s going to happen. People here have the history, and as Mary Biblo said, and Diedre Conkling said, we know it’s going to come back as the same motion that we’ve had so many times. Same resolution, same content, same empty content, and we need to stand by our decision yesterday, and the membership meeting’s strong endorsement also, and support an individual whistleblower as an instance of the whistleblowing we’re all so keen on. And I’m also reminded about this thing, about unintended consequences, of when we were trying to move against segregation and some of the southern states,
the library associations from southern states, were saying “Oh, please
don’t pass that because it will make it very difficult in our individual
legislatures to negotiate in our individual states. Please don’t make the
national ALA force our hands.” Well, I think we have a responsibility
to take a stand on some things and if there’s going to be a problem,
I’m sorry about that, it might make life more difficult for people going
into negotiation in Congress, but I do think we need to take a stand on
principle and not worry about those details.

So, what happened here? In a nutshell:
– On June 29, ALA members at the conference membership meeting
considered and approved a resolution;
– that evening the resolution was revised to meet objections raised and to
garner more supportive votes on Council
– the revised resolution was passed on June 30 by the governing council
with no debate, 105 approving, 39 opposed;
– on the morning of July 1, a member of the Executive Board, who had voted
against the resolution the previous day, made a motion to reconsider and refer to
two committees on the grounds that it hadn’t been given “due deliberation”;
– discussion ensued on this motion, concern was raised about “unintended
consequences,” and a vote was taken 96 approving, 42 opposed, 6 abstaining,
and unusual in council voting 15 councilors who were present at this meeting
cast no vote;
– the resolution was sent to IFC and COL for “more information.”

Moorman never voiced his opposition to the Snowden resolution, much less
offered an explanation for his personal position on the matter. The same is true
for Gonzalez and Raphael, neither admitting they’d voted against the Snowden
resolution. (Although votes in Council are made public with a raising of hands,
only the most attentive would know how any one councilor voted, as voting
records are not made available until after each conference, and it is highly unlikely
that for any given vote more than a handful of people would keep track of how
a particular councilor voted.) The motion to reconsider and refer “Resolution
in support of whistleblower Edward Snowden” was, essentially, a slap on the
wrists of all those council members whose “yes” vote was determined to be
somehow wrong by the powers-that-be in ALA. Of the nine Executive Board
members who voted on the resolution, six voted against it – an almost exact
numeric reversal to the Council vote itself: of the 12 Executive Board members
sitting and voting on Council those opposed to Snowden were the majority
(67%), while the majority on Council (63%) favored the resolution. The Council
vote to approve the resolution was deemed by Executive Board members to be
(a) uninformed, and (b) fraught with “unintended consequences.” This might
or might not have been a message officially backed by the Executive Board
itself, but none-the-less was put forward by several of its members. Of interest is the fact that every Executive Board member who originally voted in favor of the Snowden resolution remained completely silent during the discussion to reconsider and refer. The unstated message of Moorman’s motion was clear – Council screwed up, the Executive Board was opposed to this resolution, and now somebody more expert than Council had to fix the mess.

This tactical use of appeals to expertise in manufacturing consent, as a means of shaming “less expert” individuals or groups into compliance with the perspectives and agendas of superiors is the modern day method of “whipping” others into alignment. Although members of ALA Council and the Executive Board largely consider one another as equals, as colleagues, and although Council is the constitutionally established policy-making body of ALA, the Executive Board largely steers the ship, and has the ability to redirect its course should a squall head ALA in the “wrong” direction. All of which is to say that, although members of Council are not “subordinates” to those of the Executive Board, the later can act in the capacity of a superior if deemed necessary. This power dynamic at play is a common one, well delineated in the book Authority, by Richard Sennett (1980).

Where power was once exercised through brute force, with the rise of bureaucracies and attendant “cult of expertise,” power utilizes shame as a method of control. Sennett describes how violence gave way to shame over the course of the 20th century in the exercise of discipline in the workplace, in the school, in the home. Indeed, in my own lifetime use of corporal punishment in schools has gone from being not only an acceptable, but an expected, form of discipline to being literally outlawed. Students are no longer whipped or paddled for shortcomings or disciplinary infractions, but are shamed. Who has not written one-hundred times, “I will not talk back to the teacher.” For example, I currently have a colleague who believes he is doing his middle school students a service anytime one ungrammatically asks a question regarding the math lesson. Whenever this happens the teacher silences the student and insists that the question be rephrased. The psychological impact of this instructional method on a child can be profound. The student doesn’t understand a math concept or function, and gets a lesson in grammar. The student is doubly reduced by this authority who is expert both in mathematics and in grammar, and (generally) the student being either an English language learner or an African-American is shamed before his or her peers by their white, Euro-American male teacher. Here is how Sennett describes the phenomena within the context not of student and teacher, but of worker and employer,

Shame has taken the place of violence as a routine form of punishment in Western societies. The reason is simple and perverse. The shame an autonomous person can arouse in subordinates is an implicit control.
Rather than the employer explicitly saying “You are dirt” or “Look how much better I am,” all he needs to do is his job – exercise his skill or deploy his calm and indifference. His powers are fixed in his position, they are static attributes, qualities of what he is. It is not so much abrupt moments of humiliation as month after month of disregarding his employees, of not taking them seriously, which establishes his domination. The feeling he has about them, they about him, need never be stated. The grinding down of his employees’ sense of self-worth is not part of his discourse with them; it is a silent erosion of their sense of self-worth which will wear them down. This, rather than open abuse, is how he bends them to his will. When shame is silent, implicit, it becomes a patent tool of bringing people to heel. (page 95)

In the case of the Snowden resolution discussion, we have a tiny subset (one member of the Executive Board) of an ostensibly democratic body of equals intervening to reverse a decision, not by presenting persuasive arguments or directly addressing the merits of claims that Snowden is a whistleblower, or even sharing his own personal objections to an action taken, but patronizingly through impersonally expressed chastisement via his use of “we” (“Sometimes on council we act in haste”) and bureaucratic maneuver. With only a few exceptions, the chastised respond obligingly, not because any evidence was offered to show that their yes votes on Snowden-as-whistleblower were misinformed, but to agree with the superior that they voted “without due deliberation,” or to prove they are team-players. Three members of the Executive Board had spoken urging Council to reconsider and refer (all three had voted against the resolution). None of the Executive Board members who had voted in favor of the resolution spoke, all remained silent, handing the issue over to their Executive Board colleagues without a whisper of opposition, or even question. In a grand flip-flop, over half of council members who the previous day had voiced their informed opinion that Edward Snowden was a whistleblower, backed off in apparent admission that they should have known better than to express an informed opinion on the matter.

The “Substitute” Resolution

The next morning, after what must have been an acceptable level of due deliberation, the Committee on Legislation and the Intellectual Freedom Committee offered the following as a “substitute” for the Snowden resolution,
Whereas, Public access to information by and about the government is essential for the healthy functioning of a democratic society and a necessary predicate for an informed and engaged citizenry empowered to hold the government accountable for its actions; and

Whereas, “The guarding of military and diplomatic secrets at the expense of informed representative government provides no real security for our Republic”; and

Whereas, The ALA values access to the documents disclosing the extent of public surveillance and government secrecy as access to these documents now enables the critical public discourse and debate needed to address the balance between our civil liberties and national security; and

Whereas, These disclosures enable libraries to support such discourse and debate by providing information and resources and for deliberative dialogue and community engagement; and

Whereas, The American Library Association remains concerned about due process for the people who have led us to these revelations; and

Whereas, Libraries are essential to the free flow of ideas and to ensuring the public’s right to know; and

Whereas, Since 1939 the American Library Association (ALA) has affirmed the right to privacy in its Code of Ethics, which currently states, “We protect each library user’s right to privacy and confidentiality with respect to information sought or received and resources consulted, borrowed, acquired or transmitted”; and

Whereas, In “Principles for the Networked World” (2002) the ALA included among the “principles of privacy” the fact that “privacy is a right of all people and must be protected in the networked world” and the recognition that “the rights of anonymity and privacy while people retrieve and communicate information must be protected as an essential element of intellectual freedom”; and

Whereas, “Privacy: An Interpretation of the Library Bill of Rights” ALA recognized that “privacy is essential to the exercise of free speech, free thought, and free association”; and

Whereas, In 2003 ALA criticized the “USA PATRIOT Act and other recently enacted laws, regulations, and guidelines” on the grounds that they “increase the likelihood that the activities of library users, including their use of computers to browse the Web or access e-mail, may be under government surveillance without their knowledge or consent”; and

Whereas, Since 2010 ALA has sponsored “Choose Privacy Week,” a
campaign designed to raise public awareness about personal privacy rights by encouraging local libraries to provide programming, online education, and special events to help individuals to learn, think critically and make more informed choices about their privacy, especially in an era of pervasive surveillance; and ALA has created a website, www.ala.org/liberty, that provides substantive information about privacy, surveillance, open government, and overclassification as well as civic engagement tools to facilitate deliberative dialogues to help support libraries and librarians who create opportunities for public dialogues addressing these topics; and

Whereas, The public recently learned that the National Security Agency (NSA) is collecting the telephone call metadata of millions of U.S. customers of Verizon Business Services, AT&T, and Sprint pursuant to an order issued by the Foreign Intelligent Surveillance Court (FISC) under Section 215 of the USA PATRIOT Act; and
Whereas, Pursuant to a court order issued by the FISC under Section 702 of the FISA Amendments Act (FAA) the NSA is operating a program called PRISM that is collecting and retaining vast quantities of data on internet usage, including internet search histories, email, video and voice chat, videos, photos, voice-over-IP chats, file transfers, and social networking details, from internet service providers in the United States. Though intended to target communications of foreign persons, the NSA admits that it collects and stores Internet data from U.S. persons; now, therefore be it

Resolved, that the American Library Association (ALA):

• Reaffirms its unwavering support for the fundamental principles that are the foundation of our free and democratic society, including a system of public accountability, government transparency, and oversight that supports people’s right to know about and participate in our government;
• In light of present revelations related to NSA’s surveillance activities conducted pursuant to orders issued by the Foreign Intelligent Surveillance Court (FISC) under Sections 215 and 702 of the USA PATRIOT Act the American Library Association calls upon the U.S. Congress, President Obama, and the Courts to reform our nation’s climate of secrecy, overclassification, and secret law regarding national security and surveillance, to align with these democratic principles;
• Urges the U.S. Congress and President Obama to provide authentic protections that prevent government intimidation and criminal
prosecution of government employees and private contractors who make disclosures of wrong doing in the intelligence community;
• Calls upon the public to engage in and our members to lead public dialogues discussing the right to privacy, open government and balancing civil liberties and national security;
• Encourage the public to support bills and other proposals that both secure and protect our rights to privacy, free expression and free association and promote a more open, transparent government and be further resolved, that
• ALA expresses its thanks and appreciation to the members of Congress who work to protect our privacy and civil liberties. (Office of Intellectual Freedom 2013)

In their introduction of this resolution, the chairs of the IFC and COL explained that it was intended to cover the issues raised in the Snowden resolution and in another concerning Bradley Manning, which had come up at a previous conference. During discussion of this “substitute,” accolades to IFC and COL, words of thanks for hard work in such little time, gushed from the microphones as councilor after councilor, most of whom two days prior had voted in favor of the Snowden resolution, now supported a resolution that said nothing about either Snowden or whistleblowers.

Following is the entire transcript of discussion of the IFC/COL motion to substitute the Snowden resolution with the one above. Again, debate is presented verbatim in order to provide the reader the opportunity to experience the spirit of each councilor’s contribution to this deliberation. Also provided in parentheses after each speaker’s name is an indication of how s/he voted on (1) the original resolution, (2) the motion to reconsider and refer, and (3) the substitute motion. The way in which each councilor voted (Y=yes, N=no, A=abstain, E=absent and excused) is listed in order of the votes: first is the person’s June 30 vote on the Snowden resolution; second is their July 1 vote on the motion to reconsider and refer; and third is their July 2 vote on the IFC/COL substitute resolution. Voting records are offered for whatever they might reveal of the speaker’s comments. Finally, each speaker is a councilor-at-large unless otherwise noted.

Al Kagan, SRRT Councilor (Y, N, N): Some of us, probably many of us, saw Alice Walker speak yesterday. She read a long peace titled “the case of Bradley Manning, what are we called to do?” Where she said, something transformative is happening here, when she talked about whistleblowers. And she focused on the inhuman treatment and torture of Bradley Manning. I would be happy to support this resolution as a separate resolution. I think a lot of what’s in there we’ve already taken
action on in the past, and if you looked at the Snowden resolution you’ll see many ALA resolutions in our past that have led up to today, but I cannot, cannot support this resolution as a substitute resolution for what we passed on Edward Snowden. The Edward Snowden resolution was approved by a large majority at our membership meeting. It was approved by a large majority by this council meeting, and the will of this body should not be tampered with by ALA committees that are too worried about what might happen to our lobbying efforts in Washington on other issues. The library community has great legitimacy, and we need to be a little bit brave once in a while when the country is going in the wrong direction, and our core issues are involved. Therefore I will vote against this substitution, but as I say, I’d be happy to vote for it as an additional resolution, not as a substitute. Thank you.

Eric Suess (Y, Y, Y): To me this speaks to exactly what I wanted to see. I wanted something that deals with not the symptoms, but the disease, and I think that’s what we’re looking at here. Everybody finds the things that we’re talking about here abhorrent, but what we’ve done here is, I think, not come back with a watered-down version of what we’re concerned about. I think this is strong, it goes straight to the heart of the problem and I feel that it, as a substitute for the three referrals, one from midwinter and two from this conference, I think it serves that purpose well and gives a very clear, direct, and strong statement about what is important to this organization and what we want to project as our image as we go forward. For me this is very strong, very positive, and I will gladly support it.

Larry Romans (Y, Absent, N): I hope that this doesn’t happen again. I’ve been a councilor for twenty-one years, and this is the first time that a resolution that has been passed by this body has ended up being referred to a committee. The Washington Office, the Committee on Legislation, the Committee on Intellectual Freedom work for us as council. We don’t work for them, and the fact that the Washington Office and the committees on Legislation and on Intellectual Freedom didn’t like the resolution that was passed is unfortunate, but they had many opportunities to deal with this before it got passed. Normally the Resolutions Committee would have referred this to them [COL and IFC], but since they didn’t there are members of both of those committees who could have referred, asked that it be referred to the committee. The chairs could have asked to speak, and this is just a very bad way to go about doing this. As I said, I hope this doesn’t happen again. The other thing I’m concerned about, as former chair of Resolutions Committee, is
that these committees and the Washington Office obviously do not read the guidelines on resolution making, and in fact one of these resolutions that came up, came to them in the correct form and they uncorrected it. So I would ask that, starting at the next conference, that they read the guidelines and they follow them.

Susan Roman (Y, Y, Y): I rise in very strong support of this substitute resolution. I’m impressed with how much stronger this document is, because it reaffirms our core values by striking a balance between the public’s right to know, while protecting the individual’s right to privacy, along with a balance between civil liberties and national security. I think this resolution is stronger because it doesn’t tie this action to one individual or even two, but can be used for covering individuals now and in the future. And if I might commend, actually, the members of the Committee on Legislation and Intellectual Freedom Committee for writing, as someone said last night at forum, an elegant document that’s really timely, on such a tight deadline, it tells me how strongly and passionately our members take these professional issues that are at the core of our organization. Thank you.

Andrew Pace (Y, N, Y): I stand in support of this resolution. I also want to commend both the committees, I think there was some pretty strong language yesterday about what it means to refer something back to a committee, and though I tend to agree with Larry that things were a bit messy, sometimes democracy is messy. I want to commend them for acting very quickly, and would even suggest that some of that strong language, people need to eat those words a little bit, and whether or not they agree with what came out of the committees, that they thank the committees for their quick and elegant work.

Karen Schneider (Y, Y, Y): I would like to commend the COL and the IFC for their swift and elegant work on this. It addresses the concerns I had yesterday. I believe very much that ALA should be addressing these issues, but I agreed in my heart that the previous resolution was not the document that did that. This shifts the point of view from the person to the crisis, and I wish I had not gone to the wrong hotel last night, because the only thing I would have added is, which is really unnecessary given our timeline, is the sentence that points out that we as a profession are very well positioned to be speaking to the power of metadata. Thank you.

Jane Glasby (Y, N, N): I’d like to echo some of the things councilor
Romans said about preparing your motions properly, and I imagine if this gets passed that the housekeeper will clear up the semantic problems in the way this was prepared, and I do understand that it was prepared in a great hurry. I would not say this is about democracy being messy. I would say this was inside the beltway shenanigans that went on. And I would have hoped that when some resolutions were referred to committees that they would report back on the resolutions, rather than substituting another resolution that doesn’t really address what was raised [in the original]. I, like counselor Kagan, support what is in this resolution. I think it’s fine, it’s good, and it’s an accompanying resolution to the Snowden resolution. I think the committees were right to throw out what was referred to them at midwinter because it was just a repetition of what we’ve seen before, and it was a gutless resolution. It didn’t say anything. And I think this is a parallel resolution to the Snowden resolution, and I’d like to see the Snowden resolution stand, and to have this passed in addition. But this really doesn’t address the Manning resolution at all. I don’t see anything about the requirements of government employees, whether they be military or federal employees or otherwise, to report war crimes and be protected, and I also think that it’s all very well for us to stand on principle, but there comes a time when we have to support the individuals who carry out those principles. Where I think this generally, despite a few problems in the wording, I can’t support this as a substitute motion. Thank you.

Mary Biblo (Y, N, N): ALA is on record in support of access to information, transparency, and whistleblowers. Yet, when it comes to supporting a whistleblower council hesitates. It appears to me that we are talking out of both sides of our mouth. And I say it’s a real, real sad day, and it’s a hypocritical way of dealing with the issues. I’m ashamed of you.

Elizabeth Ridler (Y, Y, Y): I was at the forum meeting last night and I really do commend the two proposers of this resolution. There was some discussion about the shortness of the time, and not being informed and so on, but I think they gave a very clear explanation of the resolution at the time, and I think the feeling on the part of most of those councilors who were at forum after the explanation was in support of it, and with regard to support for contractors etc. If you looked at resolved three, it is dealing exactly with the issue of government employees who are employed in the area of national security and protection for them as a whistleblower. I would remind the audience that when you’re dealing with an association that has 65,000 members, and talking to Capitol Hill
and Congress, you want to be able to stand on a very clear document that is looking in general at a problem, and looking at concrete solutions that the association as a whole can get behind. And I think this resolution does that, instead of having one, two, five, ten resolutions dealing with individual people. I think it is more important for us to have a clear document that allows us to stand up for each of them as the case arises. Thank you.

Molly Raphael, Executive Board (N, Y, Y): I strongly support the substitute motion, I think it addresses all the issues that are so important to our association, and I too want to commend IFC and the legislation committee because I know this is a challenging area to write a compelling statement that becomes our policy. I think this does that, I think it’s forward looking, as I think Elizabeth just said. It proposes actual actions that we think the government should take, and I think this makes us the best we can be as a deliberative body. You know we make jokes all the time about Congress, and how they can’t get anything done, but part of being a deliberative body is being able to really think through issues, and decide what is the best place for us to be and for us to stand. And I believe that this resolution provides that place for us to stand. I also want to say that I think the whistleblower law is a terrific law, but it is very complicated, and when we start making judgments about whether people are or are not whistleblowers based on what we read in the press, and we all know that the press has some biases and different directions, so when we make those judgments about individuals we’re really stepping into an area where we do not have the facts and we do not have the expertise. Because this is such a good policy statement, I think it stands on its own, and if someone wants to [say] that this does or doesn’t apply to somebody, that’s their right, but what we have said is that this is the foundation for our association based on our core values and the importance of issues around access to information, overclassification of information that all of us are concerned about. Thank you.

Applause

Mario Gonzales, Executive Board member (N, Y, Y): I also want to show my appreciation with the committees that worked so swiftly and the work that they put into it. I strongly support this resolution for two major reasons. One is the relevancy it provides to us and libraries and librarians, and also that it calls for a call to action from the highest level of government to the average citizen, to look at us and how we
are protecting our privacy and civil liberties, which is the concern that I have about all these resolutions. So again, I thank and appreciate, and I strongly support this resolution. Thank you.

Let us pause for a moment here to unravel, if possible, an essential problem regarding decision-making. The problem has to do with views like those expressed above by Molly Raphael on expertise, the press, ordinary (ie non-expert) citizens, and decision-making within a body ostensibly run utilizing the instruments of democracy – information, deliberation, and consent. Raphael’s concern here is with a “very complicated” law, a biased press, an absence of “the facts,” and a lack of expertise. She raises a question regarding confidence. What level of the state of being informed is required in order for an individual, or group, to express an opinion or issue a statement on any given issue? This question gives way to another – who, exactly, sets the bar? Who decides what level of expertise is necessary in any given situation? The “elites” referred to by Chomsky perhaps? Is an “ordinary” person ever capable of making a statement regarding what they think about a matter of public concern? Who decides whether or not members of Council are qualified enough to use knowledge culled from a variety of press sources to express their combined views on a contentious topic of the day?

Consider the poster reproduced here from the U.S. Office of Special Counsel (OSC) describing whistleblowers. Presumably prepared, or at the very least approved, by experts in the complicated laws protecting whistleblowers from government intimidation, the poster was created to inform laypersons of the fundamentals of those laws and protections, be that person one considering becoming a whistleblower or one simply needing to be an informed citizen. Given this public information service, it does not appear that the OSC believes expertise is required to understand the laws protecting whistleblowers, and yet Molly Raphael’s statement suggests that OSC’s confidence in the public’s ability to grasp legal matters is misplaced.

On June 30th, the general public (including members of ALA) who followed the news knew that materials released by Snowden provided evidence documenting that the NSA had violated not just “any law” but the Fourth Amendment to the Constitution, a violation which, in and of itself, could reasonably be described “an abuse of authority.” NSA’s actions were not accidental or uninformed, they were deliberate, taken either in full knowledge of laws involved or in gross dereliction of duties and responsibilities. On that ground alone any statement declaring Snowden to be a whistleblower would have been grounded in an informed understanding of the law.

All of which leads to an even larger question concerning whether or not ordinary people, i.e. non-experts, can be entrusted with decision-making at all in a democracy. Former ALA president Nancy Kranich wrote in 2000 stating
that a free society “must ensure that citizens have the resources to develop the information literacy skills necessary to participate in the democratic process.” Kranich’s claim was that libraries (and librarians) being the institutions that provide the resources informing the public are essential to a free society, a democracy. We also heard a government official state that “librarians are essential to the American public as they seek information....” If Raphael’s
yardstick of expertise sets the standard, then what are we to make of Kranich and Garner and the OSC’s seeming confidence in the ability of informed non-expert people to understand complicated laws and to make decisions regarding them? Moorman, Raphael et al. appear to be simply exercising their authority as an elite to get Council to “say the right thing.”

With that in mind, let us return to the discussion.

John DeSantis (Y, Absent, N): First, I too would like to thank the two committees that worked on the rewording of this, I think the language is very good. That being said, I want to go on record as strongly opposing the practice of reconsidering resolutions that have already been passed for the same reason councilor Romans outlined. I do not approve of approving this resolution as a substitute, I think as others have said, that it would be fine as an additional resolution. I think if it is passed and released to the general public it will be read as euphemistic language because everyone knows we are talking about Manning and Snowden, and the resolution could be stronger if their names were included in the resolved clauses. Thank you.

Mike Marlin (E, N, Y): I’d also like to echo the sentiments of councilor DeSantis, I think we really need to not indulge in this practice of trying to substitute for resolutions that have been passed by the membership as well as by council, and that this would be stronger if the names were in there. And I also feel it could be an additional resolution, but not a substitution. Also, I’m concerned about the idea of taking names out because, what about the resolution commending, what was it, Colleen Rauley. It almost makes that resolution obsolete. She blew the whistle on the 9/11 issue, and I think when these timely things come up, and we commend people for whistleblowing it makes us stronger as an association. And resolved three, it talks about supporting lawful disclosures and we sometimes find out that if the courts determine that they were or not much, much later in the game, usually after the whole things blown over and the public has forgotten about it. Although I don’t know if they’ll forget about this one for a long time. Thank you.

John Sandstrom (Y, N, Y): I do stand in support of this resolution. I thank you very much for your work. As an at-large-councilor I talk to as many members as I can about the issues that are coming before us, and when I brought up the issue of Manning and Snowden I got very universal negative reaction. They are not considered whistleblowers by the majority of the members I was able to talk to. Therefore I could not support either of those resolutions. However, I can support this one.
Thank you very much. [NOTE: the official voting record indicates that Sandstrom voted in favor of the Snowden resolution on June 30]

Valerie Feinman, Small Round Tables Councilor (Y, N, Y): I agree with everything that Molly Raphael said, and I support the motion. However, I think that we may have to reconsider the earlier motion and make some sort of comment or add it to this one come January. I think this is a great beginning to layout the positions that we have, and that sometime when we know a little more about the whistleblowers and how guilty or innocent they are, then we can add that. I too spoke with several people about this and they did not want names in it at all, and they weren’t sure they wanted the word whistleblower even with the wiki definition or somebody else’s definition. Thank you. Support it.

Brian Schottlander ALCTS Division Councilor (A, Y, Y): I also stand in support of the motion and its substitution for the previous motions. I commend our colleagues for having done the quick and good work that they did. I also commend this body in the spirit of Larry’s observation about, you know, what we did on Snowden may not have been the right thing to do, and to roll it back now may further not be the right thing to do, but the beauty of this body, like any democratic body is that it reserves the right to change its mind.

Applause

Maggie Farrell, ACRL Councilor (Y, Y, Y): ACRL did discuss this, and the substitute resolution is much more in line with what we believe is good for the association, and gives us the tools that we need to move forward. Again, like many others, [including] specific names and identifying them as whistleblowers is something that ACRL members, in general, were in opposition to. I’ll also take a personal note as a vet who worked for Army intelligence for NSA, I can fully support this resolution on a personal note. It gives us the tools that we need in order to talk about privacy and security for our citizens, so I support it. Thank you.

Again, let us pause for a closer look at this quite astonishing statement. In the hierarchy of librarianship, academic librarians occupy loftier realms than public or school librarians, even though within the milieu of academia they are often relegated to the lower floors of the ivory towers. Here we have a librarian who is not only the councilor for the Association of College and Research Libraries, not only someone who worked in military intelligence, who
not only worked for the NSA, but who also voted in favor of the Snowden resolution. Surely Maggie Farrell cast her vote on June 30th with a reasonably well-informed level of certainty that Snowden-as-whistleblower was a correct position to take, and that it was important for ALA to issue a statement to that effect. Division councilors most often decide how to vote on any given issue, not simply as private persons, but as representatives of the divisions that elected them. One can only wonder what transpired in the two days between Farrell’s approval of the Snowden resolution and her statement that “ACRL members, in general, were in opposition” to such resolutions. Farrell’s change of opinion was quite a parade ground about-face. Perhaps she voted her own private conscience on June 30, disregarding what she knew of the opinions of “ACRL members, in general.” Perhaps she voted her conscience without asking herself what ACRL members might think. Perhaps most ACRL members whose opinions on the matter she knew of actually agreed with her original opinion regarding Snowden. Perhaps, as a former Army intelligence and NSA worker, Farrell simply abandoned her conscience as soon as she realized that the “higher ups” did not approve. The Army, after all, trains soldiers to jump when superior officers say “Jump!”

Paula Brehm-Hegger (E, did not vote on referral, Y): I rise in support of what’s currently being considered. I do want to briefly speak to the discussion about the Manning resolutions. We have considered those repeatedly over the past couple of years. I think this body has expressed the will that that is not a direction we want to go in. I agree that is not the direction we want to go in. I do want to, as an outgoing councilor, I do, however, want everyone in the room to consider the fact that our friends who have been moving that resolution repeatedly, I think we owe them a debt, because they brought that forward before all of the rotten things going on were quite clear. And they alerted us rather early in the game that something probably was rotten and that we should be aware of it. And I don’t know that everyone paid as much attention as we should, so even though the Manning resolution specifically did not get passed, and I think this is a better way to go, I want to say that I personally appreciate that. I think the group should appreciate that, and that is something that I think has gotten us in this direction. So thank them for doing that, even though that’s not where we’re at. It’s been a significant thing and they were way ahead of that.

Applause

Brehm-Hegger’s mention of the “Manning resolution” is a reference to the fact that the individuals who drafted and moved the Snowden resolution through
ALA were also involved in earlier and very similar resolutions regarding Bradley Manning. Brehm-Hegger’s note of appreciation raises an intriguing circumstance regarding the prescience of “our friends…who alerted us rather early in the game that something probably was rotten and that we should be aware of it.” Recognition is given here to a very small subset of Council members who, in Brehm-Hegger’s estimation, and worthy of her thanks, had (1) paid attention to (2) a situation and (3) had brought it to the attention of the whole. “I don’t know that everyone paid as much attention as we should…” says this councilor, and she also seems to be saying that, while at one point in time the rotten something was not clear, subsequently it had become so. Despite her own objection to an official ALA statement directly addressing whistleblowers, she is none-the-less moved to recognize movers of the Manning and Snowden resolutions for being “way ahead” of Council in being cognizant of situations relevant to the values of librarianship. The applause following her statement might have been for the obvious sincerity with which she spoke, or for the content of her statement, or both, it hardly matters, but having been present at this meeting I can attest that the applause was widespread, not simply partisan.

Discussion neared its conclusion, but not before generating a few sparks between the next speaker and the chair of the meeting.

Tom Wilding (Y, N, N): I will support this resolution because I don’t believe in throwing the water out with the baby, but I think this is the water. The Snowden resolution was the baby in this instance. And I have to express extreme disappointment with the process with which this was done because I’m not a suspicious person by nature, but I suspect strongly that the Executive Board made a decision that they needed to do something, and move parliamentarily to do something. And I think back to all the microphone speakers who put the resolution forward, and all that, and it just adds up to a suspicious line to me. I would have liked this better if there had been transparency, had somebody come to the microphone and said “the Executive Board has reviewed this, and feels uncomfortable, and would like to put this on hold until after consideration by committees.” I am increasingly of a mind that the Executive Board does not practice...

Chair interrupts: Councilor Wilding, permit an interruption. I believe you are speculating and what you are speculating about is not true.

Wilding: But I will continue to speculate that way. And suspect that way.

Chair: And I have the responsibility of assuring this body of the facts, and that is not a factual statement.

Wilding: That’s fine, but I still think that the process by which this was done was unfortunate, and while I will vote for this I really have a very
hard time seeing it as a substitute. It doesn’t seem like a substitute at all to me.

In the end, Wilding voted against the substitute, perhaps from irritation at the chair’s unusual interruption, or perhaps determining that his recognition that the resolution was not an adequate substitute swayed his vote. Regardless, his voting record on this matter remained consistent with his original vote.

Immediately following was a motion to amend the resolution slightly by David Hurley (Y, N, A). There was no discussion after Hurley presented his motion, and the vote to amend passed by 69-67. Discussion returned to the main motion, to substitute the Snowden resolution with that of the IFC and COL.

Michael Porter, Executive Board member (N, E, Y): Speaking to this resolution, I find it impressive and effective in many ways, particularly considering the pressing time constraints that we were dealing with. Speaking to the process, getting to the resolution, adjustments, I recognize that the procedure was followed and that this resolution swap, as it were, can stand. I do find, however, the politicking and maneuvering a bit unsettling, and would ask all involved in the future of this process to contribute and do hard thoughtful work on issues they are expert on and have strong beliefs around, just as I would ask us moving forward to focus on being as inclusive and respectful and cooperative as possible. There are hurt feelings here and suspicions around this process, and I find that very troubling. I have never written down a comment I was to make from the microphone, and I would also like to point out that I wrote that down before councilor Wilding stood and shared his suspicion. I would also like to commend him for sharing that suspicion because I think that people are feeling it, and it’s important that it’s addressed, and that we understand in the spirit of the cooperation and understanding and hard work that we do on things that we care about, that we continue to address those sorts of things both here in the council and in private conversations as councilors. Thank you.

Larry Romans (Y, absent, N): I also have great admiration for both of the committees. I know Vivian Winn personally, I think she’s one of the most effective chairs of legislation there has been. At the same time this is not exactly a quick response. The Bradley resolution was referred to them six months ago. There is the ability to talk with each other, to e-mail each other and so forth, and I think it’s important for committees to do their work between the conferences. And also, this kind of thing doesn’t happen if people present their resolutions before
the conference and people have a chance to discuss things. I think that these committees should have been working on this, and should have brought something forward, and that that would have precluded any of this problem with the Snowden resolution, and I hope they will do that in the future.

Elizabeth Ridler (Y, Y, Y): Call the question.

Ridler’s motion to close debate was approved, and followed immediately by a vote to substitute the Snowden resolution with the resolution proposed by the IFC and COL. The vote to substitute passed with a show of hands: 138-yes, 20-no, 3-abstentions. No one who was present failed to cast a vote.

A handful of members of an elite group, with the assistance of the Committee on Legislation and the Intellectual Freedom Committee, had taken an unprecedented step to silence the voice of Council. Moorman, either self-appointed and alone, or in collaboration with others, refused to accept the will of Council as expressed on June 30, 2013. Some hold that all is fair in love and war – intrigue, duplicity, abuse, violation – perhaps too on Council floor. What was most disturbing in this instance was the ease with which a body of well-informed adults so easily performed this political about-face. Council went from challenging the federal government’s determination of Snowden as traitor to allowing this characterization to stand unchallenged. The original vote on Snowden had been 105 in favor, 39 opposed, 10 abstentions. The vote to substitute the COL/IFC resolution was 138 in favor, 20 opposed, 3 abstentions. The implications of the fact that four-fifths of those who voted for the Snowden resolution abandoned their position two days later are sobering. The voice of ALA fell silent before the federal government – from challenge to compliance within 48-hours. ALA leadership proved itself a trusted partner to the feds.

In his statement during the debate to substitute, Al Kagan said,

The Edward Snowden resolution was approved by a large majority at our membership meeting, it was approved by a large majority by this council meeting, and the will of this body should not be tampered with by ALA committees that are too worried about what might happen to our lobbying efforts in Washington on other issues. The library community has great legitimacy and we need to be a little bit brave once in a while when the country is going in the wrong direction and our core issues are involved.

Why does it matter that, with respect to Edward Snowden himself, ALA went from recognizing “Edward Snowden as a whistleblower who, in releasing information...has performed a valuable service” to urging “the U.S. Congress and President Obama to provide authentic protections that prevent
government intimidation and criminal prosecution of government employees and private contractors who make disclosures of wrong doing in the intelligence community”?

Simply this: ALA abandoned a clear, unequivocal statement identifying Snowden as a whistleblower deserving of “authentic protections,” in favor of one appealing to two bodies, the legislative and executive, who ALA knew were actively, publicly, or otherwise denying Snowden such protection.

The Snowden resolution was a challenge to the federal government, while the IFC/COL substitute let the status quo go unchallenged and simultaneously allowed ALA to declare consistency with longstanding commitments to privacy rights. “Authentic protections” already exist in federal legislation regarding whistleblowers, but in this specific case the federal government refuses to recognize Snowden as a whistleblower, thereby declaring prior to any investigation that those “authentic protections” are irrelevant to his case. Furthermore, with the substitute ALA reiterates positions on privacy rights, while completely abandoning all prior statements and commitments regarding whistleblowers by simply ignoring them.

Council’s turnabout on Snowden is a perfect example of the phenomena Chomsky referred to – freedom of speech is allowed, but an elite must ensure that the voice “says the right thing.” And the “right thing” to say about Snowden was nothing, which is exactly what happened. The predictions of Conkling, Biblo, Kagan, and Glasby played out when the IFC and COL presented a “substitute” resolution, which did not mention Snowden, or the word whistleblower, or even any of ALA’s own prior statements regarding whistleblowers.

The question, in analyzing this debate with an eye to the hegemonic role ALA plays within librarianship, is – What would saying “the right thing” be in this instance? If saying Edward Snowden is a whistleblower who deserves ALA’s thanks is the wrong thing, then were does that leave us? What does it mean that the “right thing” for ALA to say regarding the act and the actor which brought to light NSA’s massive invasion of countless people’s privacy can only be to say nothing, to be silent altogether, or to agree with the federal government that the person responsible for the revelations is a traitor?

When a book is banned from a library, the Office for Intellectual Freedom does not simply mail out a generic, blanket statement opposing the banning of books, rather OIF is specific, naming names – title, author, place of banning, public officials involved – along with a demand that the banning action be fully investigated toward returning the book to the shelves. When the next school of library and information science is threatened with closure, ALA will not simply decry the closing of LIS schools in general, but will identify the specifically threatened school in order to rally support.

In his report of the 2013 Annual Council meetings, Al Kagan wrote of the substitute resolution,
In keeping with ALA’s recent tradition, that resolution stripped out names of individual whistleblowers and just made broad policy statements. There is nothing wrong with the generalities in that document, but it will have little or no effect in supporting the people who are taking huge risks to bring out the misdeeds of our government…I could not support this resolution as a substitute for the Snowden resolution, and a small number of Councilors agreed with this position and voted against the substitute resolution.

Generic statements demand only generic responses. Calls for government transparency, get met with we’re-looking-into-the-matter responses. Specific statements demand specific responses. Recognition of Snowden as a whistleblower, demands an investigation of his situation as a whistleblower. When the federal government is calling Snowden a traitor, and is spying on you, it requires a bit of courage to challenge that characterization. While researching this article, using the internet, I certainly wondered whether or not the NSA might be tracking people searching for information about Snowden. My name will certainly pop-up from NSA’s datamine if they want to know who’s curious about “Edward Snowden.” The names of curious students with Arabic names at the middle school where I work will pop-up on when the NSA looks for searches on Al-Qaeda. Guilt by association, no matter how tangential, is hardly unknown. In the words of a presidential review group of NSA spying released in December 2013,

Knowing that the government has ready access to one’s phone call records can seriously chill “associational and expressive freedoms,” and knowing that the government is one flick of a switch away from such information can profoundly “alter the relationship between citizen and government in a way that is inimical to society.” (Cole 2014)

Even when six months later, at a time when more people were demanding that Snowden be recognized as a whistleblower, ALA Council failed at its January 2014 midwinter meeting to vote in favor of another resolution similar to the one of June 30th.

In a country where one is assumed to be innocent until proven guilty, government officials who decide off-the-bat that Snowden is a traitor before even investigating the possibility that he actually qualifies as a whistleblower are overstepping their sworn duty to the U.S. Constitution. Is it no wonder then that organizations like the Government Accountability Project have determined that we are today living in a “surveillance state” where “the enemy is the whistleblower”? In not acting to challenge U.S. officials’ and some mass media commentators’ predetermination of Snowden as a traitor, ALA is stepping
away from its stated commitments to the right to privacy, and in stepping away abandonment is not likely to be far off.

Some ALA councilors claimed that the third resolved on the IFC/COL “substitute” resolution clearly covered ALA’s commitment to the rights of whistleblowers,

[ALA] urges the U.S. Congress and President Obama to provide authentic protections that prevent government intimidation and criminal prosecution of government employees and private contractors who make disclosures of wrong doing in the intelligence community,

But, what is inauthentic about current whistleblower protections? Laws already provide authentic protection, what is missing is authentic recognition and enforcement of those laws. The situation we face is that some members of Congress, the President, and other interested parties do not want to treat Snowden as a whistleblower. They do not want to give Snowden the protection of already existing authentic laws, because his actions exposed the “man behind the curtain” as a charlatan with respect to NSA’s claim to being an agency that protects the public and abides by the law in doing so.

This resolved clause also acts as if the need for authentic protection is of merely theoretical rather than of immediate practical interest. Without explicitly stating that there is an existing, real, flesh-and-blood person named Edward Snowden who is not, right now, being protected from government intimidation and criminal prosecution, ALA is abandoning a human being whose case just might embody values and positions supposedly important to the association. And, more chillingly, the practice of carefully crafting language in order to avoid potential conflict with authority stands as an example of the sort of semantic game-playing that presents itself as sincere, authentic communication while actually being something else.

The IFC/COL resolution is nothing more than political gamesmanship, grandstanding, and avoidance. Despite its reaffirmation of “unwavering support for fundamental principles…including…accountability…transparency, and oversight,” in the absence of any specificity regarding the situation that gave rise to the document (namely a discussion about Edward Snowden) it says much about nothing that anyone need act upon, it holds no one accountable, makes opaque with words what should be transparent, and protects no one, instead abandoning the oversight responsible citizens should exercise within a democracy when officials and agencies misuse and abuse positions of authority. It is a defense of writs of assistance cloaked in the language of democracy. John Adams surely lies agitated in his grave.

Moorman claimed that Council was in need of more information that would be provided by the IFA and COL. Neither was forthcoming with additional
information about Edward Snowden’s status as a whistleblower. Indeed, they both ignored this matter altogether. And, what of his claim that the work of the Washington Office would be hindered by a statement from ALA declaring Snowden a whistleblower? The Washington Office is supposed to represent ALA in dealings with legislators and legislation. If questions arose regarding ALA’s position on Snowden, the Washington Office would be obliged to explain in a positive manner the will of Council in taking the position. Was the staff at the Washington Office unable or unwilling to do so? Either way it would be derelict in its duty as lobbying arm of the association.

In the end, as a body ALA Council completely succumbed into compliance with an authority more powerful than the collective conscience expressed on June 30th abandoning a principled decision when an elite appealed to fears of ALA Washington Office lobbyists “paralyzed” by a statement that challenged the federal government. What this incident says about the current state of librarianship as a “cornerstone of democracy” is that this image, this metaphor, is either just a fine façade or that the cornerstone is losing its integrity, cracked by fears of unintended consequences. When citizens are silent, fail to hold those in power accountable, or allow an elite to ensure that everyone speaks with one voice, we abandon the possibility of democracy.

WORKS CITED


NOTES

2. Raber (2007)
3. Many thanks to Susan Maret for bringing to my attention the work of Sissela Bok
4. ALA divisions include: American Association of School Librarians; Association of College and Research Libraries; ALCTS; ALSC; ALTA; ASCLA; LLAMA; LITA; PLA; RUSA; and YALSA. ALA roundtables are: NMRT; LIRT; SRRT; SLLIRT; GODORT; IRRT; LRRT; GLBTRT; IFRT; CLENERT; EMIERT; ERT; FAFLRT; LHRT/ MAGERT/ SORT/ VRT; SRT. In addition to the 50 state library associations that elect one councilor each, both Guam and the Virgin Islands, territories of the U.S. also have one councilor.
5. On 14 June 2014 The Washington Post and The Guardian (U.S. edition) were jointly awarded the Pulitzer Prize for reporting on the NSA scandal.