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Saturday, May 2, 2009

Facts Disprove ALA Statements Regarding West Bend, WI; ABFFE, NCAC, and Others Similarly Incorrect

OPEN LETTER TO WEST BEND COMMON COUNCIL

4 May 2009

West Bend Common Council
City of West Bend
1115 S. Main Street
West Bend, WI 53095

Dear Members of the West Bend Common Council,

Deborah Caldwell-Stone, the American Library Association's [ALA] [new Acting Director of the Office for Intellectual Freedom](#) [OIF], has made objectively-discernible false and misleading public statements. Other pressure groups, such as the National Coalition Against Censorship, are similarly mistaken. The various statements may mislead governmental officials and citizens into choosing to continue to abide ALA policy instead of legally protecting community children from inappropriate material in the [West Bend Community Memorial Library](#). This letter is an attempt to shine the light of truth on such statements so the West Bend Common Council might be fully informed before making any decision related to the public library.

Bear in mind that for almost a decade Caldwell-Stone has been with the OIF, including as Deputy Director, and should by now be expected to be knowledgeable in the facts and the law. Significantly false and misleading statements should be inexcusable at this point in her career.

Caldwell-Stone appeared on [WORT-FM's](#) weekly radio show in Madison, WI, called "[Queery](#)," to discuss the [library controversy in West Bend, WI](#). The show aired on 29 April 2009 at 7 PM local time and can be [heard in its entirety at this link](#).

Transcript of the ALA's Acting Director of the OIF

Here is a transcript of the relevant sections of the Caldwell-Stone interview (permissible under US Copyright §107 Fair Use). She provided some information that was for the most part factually correct, so those sections are not controversial and are not included. The questions from the show's hosts are included for context. Timestamps are provided for those desiring to jump to the relevant sections:

19:27 **Host:** And joining us next is Deborah Caldwell-Stone, the Acting Director of the American Library Association's Office for Intellectual Freedom to talk about the national context of these book challenges. Thanks for joining us.

19:39 **Caldwell-Stone:** Uh, thanks for having me on.

19:41 **Host:** Hi Debra, how common are these book challenges at public libraries?

19:46 **Caldwell-Stone:** Um-ah, there, they unfortunately happen a little too frequently for our taste, um, however, I will say that, ah, a majority of the challenges we saw this year occur in the school setting, but it doesn't prevent it from being raised in the public library setting as well, um, ah, and the attempts to go after young adult materials, specifically those aimed, um, at, um, ah, gay, lesbian and transgender, ah, youth or portraying characters, ah, in literature, ah, that are gay, lesbian or transgender is, ah, fairly common these days. Ah-um, we saw a similar challenge to the one going on in West Bend in St. Louis County, um, and, ah, and again in that instance the library preserved the young adult program and resisted the attempts to remove the books from the library, but, um, ah, unfortunately as I said we see this all too often.

22:04 **Host:** Um, ah, some of the, um, I guess, arguments for restricting the books, um, you're saying it's not banning, and it's not really censoring, it's not really preventing the people from reading these books and, ah, anyway these books say a-awful things like, um, you know, um, ah, a girl's breast grows over the summer, I know that was one of the things cited as pornographic on one of the web sites, so, you know, what's so bad about restricting access to these books?

22:34 **Caldwell-Stone:** When the, ah, hhh, when you take books away from the youth area, when you slap a label on them that says this is a bad book and we probably shouldn't be reading it, when you put roadblocks in the way of kids accessing information and ideas like oh you need your parent's written permission to get the book, it's a form of censorship. It's denying access because somebody disapproves of the content of the materials, and, uh, you know, in fact, you know, libraries have attempted this by saying we're only taking the book out of the children's room and put it, putting it in the adult area, and, li a library that actually attempted this in, ah, Wichita Falls, Texas, was sued by the local ACLU and a citizen's group and lost that lawsuit and the court ordered the books back into the children's room on the grounds that these are works that are written for and aimed for, ah, a youth audience, and by putting them in the adult section, by labeling them in a way that judges the content, um, they, the, there's a violation of the First Amendment rights of youth, which is sometimes forgotten in these debates because young people do have First Amendment rights, particularly, ah, young people who are coming of age, they have a right to access information and ideas in the library as much as anyone, and these kinds of restrictions that are solely designed to limit access, to make the books hidden, to try to prevent people from getting access to the information, um, fall under the category of this kind of censorship. So, uh, needless to say we have, you know, we, we've, oppo, you know, we really oppose these kinds of tactics, ah, because it it's a simply a way of blocking access to these books.

Factual Information Related to Transcript

A 2008 [library controversy occurred in St. Louis County, MO](#). A [citizens group](#) sought to have certain books potentially inappropriate for children moved within the library. It also sought a means for providing parents with notice as to potentially inappropriate content for children. The group never requested the removal of any books. Ultimately, the library moved certain books to the adult section as a result of the group's request, however, it also moved some [sua sponte](#). In

addition, the labeling system adopted by the library board was meant to provide a means for notifying parents as to the contents of certain books.

A 1998 [library controversy occurred in Wichita Falls, TX](#). The government passed a resolution allowing the signatures of 300 people to require the public library to move material. Two books were moved from the children's section to the adult section under the new resolution because they were deemed as promoting homosexuality. The ACLU sued and the court found the resolution to be unconstitutional because, among other things, it targeted a perceived viewpoint, namely, homosexuality. See [Sund v. City of Wichita Falls](#), 121 F.Supp.2d 530 (N.D. Tex. 2000). The court said:

By conferring upon any 300 patrons the power to remove from the children's section any books they find objectionable, the Altman Resolution unconstitutionally confers a "heckler's veto" on the complaining patrons, effectively permitting them to veto lawful, fully-protected expression simply because of their adverse reaction to it. The Supreme Court repeatedly has invalidated other "heckler's veto" regulations as antithetical to core First Amendment values.

....

"Speech that is neither obscene as to youths nor subject to some other legitimate proscription cannot be suppressed solely to protect the young from ideas or images that a legislative body thinks unsuitable for them." Here, the Defendants have not made--and, indeed, could not possibly make--the suggestion that the targeted Books [[Heather Has Two Mommies](#) and [Daddy's Roommate](#)] are "obscene as to children" in the legal sense. There simply is no interest, let alone a compelling one, in restricting access to non-obscene, fully-protected library books solely on the basis of the majority's disagreement with their perceived message.

Analysis of the Facts Vis-a-Vis the ALA Statements

Caldwell-Stone said, "we saw a similar challenge to the one going on in West Bend in St. Louis County, um, and, ah, and again in that instance the library preserved the young adult program and resisted the attempts to remove the books from the library...." False. The library did not "preserve the young adult program." Rather, the library moved some books from the children's to the adult section on its own accord and some as a result of the actions of a citizen's group making claims substantially similar to those of [another citizen group is making in West Bend](#).

Also, Caldwell-Stone says the St. Louis County library "resisted the attempts to remove the books from the library." False. That citizen's group never made any requests to remove any books from the library. Similarly, the West Bend citizen's group is not requesting any books be removed from the library. Yes, I am aware that [a new group \(the Milwaukee branch of the Christian Civil Liberties Union\) is now making such a request](#), but that is extraneous to the matter at hand that has been ongoing for a while.

Caldwell-Stone said, "When ... you slap a label on them that says this is a bad book and we probably shouldn't be reading it...." False. The labels are not to mark a book as a "bad book." Rather, they give parents notice that they may wish to examine the contents for the existence of material that that may consider inappropriate for their children. The ALA does not provide such

notice, not even on its award-winning books (like [Looking For Alaska](#)) or its "top ten" lists (like the one with [Deal With It!](#)), so the ALA cannot argue the parents are solely responsible for proper book decisions while at the same time recommending books without adequate notice as to the contents. Communities are allowed to attempt to provide parents with adequate notice as to book contents, just as St. Louis County has recently done.

She also said, "When ... you put roadblocks in the way of kids accessing information and ideas like oh you need your parent's written permission to get the book, it's a form of censorship." False. Parents keeping children from inappropriate material is not "censorship." That's called parenting. That's called common sense. It's not censorship. The public library belongs to the parents and the citizens, not the ALA. If the ALA claims it is censorship for parents to keep inappropriate material from children, and that is what it has done here, then West Bend is entitled to seriously discount the trustworthiness of guidance from the ALA. As the 40-year former Director of the OIF said, "[Parents who would tell their children not to read Playboy 'don't really care about their kids growing up and learning to think and explore.'](#)"

Indeed, in the 2003 US Supreme Court case, [US v. ALA](#), considered an expensive loss for the ALA, the Court said the exact opposite of what the ALA's Acting Director of the Office for Intellectual Freedom's Deborah Caldwell-Stone is saying to West Bend. West Bend citizens need to decide whether the ALA is authoritative when it says parents protecting children from inappropriate material is censorship, or whether the US Supreme Court is authoritative when it said to the ALA, "**The interest in protecting young library users from material inappropriate for minors is legitimate, and even compelling, as all Members of the Court appear to agree.**"

Caldwell-Stone then says, "It's denying access because somebody disapproves of the content of the materials, and, uh, you know, in fact, you know, libraries have attempted this by saying we're only taking the book out of the children's room and put it, putting it in the adult area, and, li a library that actually attempted this in, ah, Wichita Falls, Texas, was sued by the local ACLU and a citizen's group and lost that lawsuit and the court ordered the books back into the children's room on the grounds that these are works that are written for and aimed for, ah, a youth audience, and by putting them in the adult section, by labeling them in a way that judges the content, um, they, the, there's a violation of the First Amendment rights of youth, which is sometimes forgotten in these debates because young people do have First Amendment rights, particularly, ah, young people who are coming of age, they have a right to access information and ideas in the library as much as anyone, and these kinds of restrictions that are solely designed to limit access, to make the books hidden, to try to prevent people from getting access to the information, um, fall under the category of this kind of censorship."

False, because Caldwell-Stone is clearly implying books may never be moved from a children's section to an adult section. Leaving aside that [she contradicts her own previous statements](#), she leaves out the circumstances of the matter. First, the content was not the only matter at issue, but also the "perceived viewpoint." In that Wichita Falls case, the perceived viewpoint being opposed was homosexuality. That is not the case in West Bend; it was initially, but that issue was dropped long ago (relatively speaking). The court's ruling was in part based on the opposition to homosexuality. That is simply no longer the case in West Bend despite how the

[ALA President](#), the [University of Wisconsin-Milwaukee](#) ("[T]his Statement of Support is ... from the entire faculty, teaching academic staff, and the graduate student organization at the School of Information Studies at UW-Milwaukee."), and the like attempt to convince people an animus against homosexuality is still part of the current matter.

Caldwell-Stone also fails to reveal the Wichita case found a "heckler's veto" law unconstitutional, and that has nothing to do with West Bend. The actions of a library acting in accordance with its legitimate policies has nothing to do with "heckler's vetoes" and any concomitant First Amendment violations. Wichita Falls passed a resolution allowing 300 people to force the library to move a book. That's what was found unconstitutional, not the mere moving of inappropriate books.

Caldwell-Stone also fails to inform the listeners that the Wichita Falls court based its decision in part on the non-obscene nature of the books. The books dealt with homosexuality in a non-obscene fashion. Such books cannot be removed, and that's exactly what the case found, citing in part to a similar case. That is not the issue in West Bend. Non-obscene books of a homosexual nature are not being challenged. Rather, the concern is over material that may be inappropriate for children, the very material the US Supreme Court said was "legitimate, and even compelling" to keep from children in a public library. Homosexuality has nothing to do with any remaining issue in West Bend.

Similar False Statements from the American Booksellers Foundation for Free Expression, the National Coalition Against Censorship, the Association of American Publishers, and PEN American Center

Other major sources of pressure to prevent the application of legal means to protect children in West Bend are the [American Booksellers Foundation for Free Expression](#), the [National Coalition Against Censorship](#), the [Association of American Publishers](#), and [PEN American Center](#). In a [letter dated 28 April 2009, similar misleading statements about Wichita Falls](#) were made. Even worse, the groups continue to refer to matters dropped long ago, namely, the out-of-date homosexuality claims. They are not even addressing current issues such as Internet filtering. They want people to oppose several legal means of protecting children, and they attempt to convince people to do this by saying that some people's requests now oppose homosexuality, but that is simply not the truth anymore.

And you have to love the way the groups refer to the "critical acclaim" of the books. The ALA awarded a book for 12-year-olds and up (*Looking For Alaska*) a top award, though it contained oral sex and was otherwise pervasively vulgar. I got the author to admit he would not give his own book to his own 12-year-old if he had one. Is that the kind of critical acclaim to which they are referring? Are they also saying input from citizens should not be considered, but input for those providing critical acclaim should be? "These books are plainly not obscene and are fully protected under the First Amendment." Then why did the [liberal New York City public school system remove one of the books from hundreds of public schools](#)? Are they "plainly not obscene" to you? Would your constituents consider them "plainly not obscene"?

The Dog Not Barking

What is the dog not barking? What is no one discussing here? It is the very purpose of the library as defined by the legislative instrument that created the library. That instrument likely created the library for a certain purpose, and that purpose likely does not include an "anything goes" policy. I do not have the instrument, but I suggest consideration should be given to what it says and whether the ALA-like policies being applied in the library exceed the bounds of the legal instrument. If they do, the library is acting *ultra vires*, outside the law, and the government is perfectly free to act to enforce the law.

Library autonomy does not apply where the library is acting outside the law.

Conclusion

In summary, the ALA and other major pressure groups have provided guidance to the West Bend community that is objectively false and misleading. After listening to the ALA's Deborah Caldwell-Stone speaking on WORT's "Queery," a simple reading of the facts of the St. Louis County matter and the Wichita Falls case show that the ALA's trusted leader in the area of intellectual freedom is both factually incorrect and seriously misleading.

There is no need to take my word for it. The facts are available for all to see. The words are Caldwell-Stone's own words in her own voice. I have linked to the actual Wichita Falls court decision and numerous sources regarding the St. Louis County matter, among other sources such as US v ALA. Compare what you read there to the words of Deborah Caldwell-Stone. Decide for yourselves if the ALA is providing accurate information or if it is misleading you instead.

If you find the ALA is misleading you, if you find the other pressure groups are misleading you, that is not enough. You need to act legally to protect your children in the public library. If such action extends to the refusal to reappoint library board members who refuse to complete their own proffered materials reconsideration policy, among other things, so be it.

It is perfectly within your rights to protect children in a legal manner despite what the ALA and other pressure groups say otherwise. As **Dan Gerstein** said, "[The ... elites have convinced themselves that they are taking a stand against cultural tyranny. \[T\]he reality is that it is those who cry 'Censorship!' the loudest who are the ones trying to stifle speech and force their moral world-view on others.](#)"

I commend you for your actions to remove library board members who are "[not serving the interest of the community.](#)" I strongly urge you to protect the right of all readers to read and think freely while at the same time legally protecting children from inappropriate material in the public library. By acting in such a fashion, you will demonstrate respect for your patrons and their choices; for the professionalism of the librarians who serve the reading public and not the American Library Association, and for the library's legislative instrument and its central role in ensuring the local public library remains local and does not fall under the control of outside influences who are using false and misleading information to bend you to their will.

If I may be of assistance in this matter, please do not hesitate to contact me.

Sincerely,

/s/

Dan Kleinman

Director

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Media