

Update on the Internet and the First Amendment

by David L. Hudson, Jr.

The Internet has revolutionized the way people communicate and conduct their lives. The so-called information superhighway provides unparalleled educational opportunities. It also has the potential to serve as a First Amendment fantasy because it is, in the words of one federal judge, “the most participatory form of mass speech yet developed.”¹

But some see a dark side to the Internet. They view it as a place with the potential to corrupt minors with its easily available, sexually explicit material. Legislators have reacted to online porn with a slew of laws designed to protect minors. These laws seek to preserve the beneficial aspects of the new technology while limiting exposure to sexually explicit material.

This push to regulate the Internet is nothing new. Throughout history, when a new medium of communication has developed, government officials have often responded quickly with what legal commentator Robert Corn-Revere has labeled the “the culture of regulation.”² “Censorship is contagious, and experience with the culture of regulation teaches that regulatory enthusiasts herald each new medium of communications as another opportunity to spread the disease,” according to Corn-Revere.³ For example, as First Amendment scholar Rodney Smolla explains, when Gutenberg developed the printing press circa 1450, the Archbishop of Mainz created a censorship body, and the Venice Inquisition issued a list of banned books.⁴

The expansion of printing led English officials to pass restrictive licensing laws that allowed the crown to impose prior restraints on publication. When movies were first introduced in the early 20th century, the United States government argued for tight censorship controls because it was believed that movies would easily influence children.⁵ The same pattern emerged with the Internet. The development of this new technology led to movement for regulation.

Congress first ventured into regulating the Internet with provisions in the so-called Communications Decency Act of 1996, or the CDA. Two provisions of the CDA, which were



quickly added to a large telecommunications bill, criminalized the online display or transmission of “indecent” and “patently offensive” speech.

The CDA also prohibited so-called “obscene” speech. A group of plaintiffs led by the American Civil Liberties Union (ACLU) and the American Library Association (ALA) challenged the aspects of the CDA that sought to regulate “indecent” speech. The plaintiffs did not challenge the aspects of the CDA that pertained to obscene speech, because obscenity is a category of expression not protected by the First Amendment. Indecent speech, however, does receive First Amendment protection, particularly for adults and older minors.

The U.S. Supreme Court struck down the challenged aspects of the provisions of the CDA in its 1997 decision, *Reno v. ACLU*.⁶ The Court reasoned that the law would suppress a large amount of protected speech for adults in its quest to protect children from harmful material.

The government argued in the case that it should have special control over the Internet, similar to the control that it holds over the broadcast media (radio and television). The Court disagreed for two reasons. First, the Internet has traditionally been much freer from regulation than the broadcast media, and secondly, the Internet is not as “invasive” as radio or television. In other words, computer users normally must search for harmful material. It is not thrust at them, as is offensive language on the radio or television. In fact, in its decision, the Court went so far as to say that, unlike the broad-

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cast media, the Internet was entitled to the highest degree of protection—similar to the high degree of protection afforded print media.

In *Reno v. ACLU*, the Court concluded: “The growth of the Internet has been and continues to be phenomenal. As a matter of constitutional tradition, and in the absence of evidence to the contrary, we presume government regulation of the content of speech is more likely to interfere with the free exchange of ideas than to encourage it. The interest in encouraging freedom of expression in a democratic society outweighs any theoretical but unproven benefit of censorship.”⁷

The essential points of the Court’s decision about the challenged provisions of the CDA in *Reno v. ACLU* included the following:

- The Internet is entitled to the highest degree of protection, similar to the print media and more than the broadcast media.
- The terms “patently offensive” and “indecent” were too vague because they were not adequately defined. The Court explained: “The general, undefined terms ‘indecent’ and ‘patently offensive’ cover large amounts of nonpornographic material with serious educational or other value.”
- Indecent speech, unlike obscenity, is entitled to First Amendment protection, especially for adults.
- The government has a strong interest in protecting minors. But the government may not unnecessarily suppress speech that is constitutionally protected for adults in its quest to protect children. In other words, the government may not reduce speech on the Internet to that which is fit only for children.

The demise of the CDA has not ended free-speech controversies surrounding the Internet. Understandably, lawmakers wish to shield children from harmful material on the Internet. Two major methods of shielding children from such material are laws that regulate the content of speech on the Internet, such as the CDA, and technologies that block objectionable material from reaching users’ computers. These blocking technologies are called filtering products. Both methods have engendered public policy debate and controversy.

Federal and state content laws and filtering technologies are not the only major First Amendment issue to surface in the debates about Internet speech. School officials have also punished public school students for material they have created on their own personal home pages on home computers.

This publication seeks to explore recent developments in these three areas: (1) the legal debates and controversies surrounding

student Internet expression; (2) the controversy surrounding the Child Online Protection Act, the major Internet content law; and (3) the controversy surrounding filtering on the Internet and the Children’s Internet Protection Act.

Student Internet Speech

Many students have turned to the Internet as a medium to express a variety of viewpoints, including criticism of school officials. The U.S. Supreme Court in *Reno v. ACLU* decided that speech on the Internet is entitled to the highest level of protection on par with the protection entitled by print media. However, public school students do not receive the same level of constitutional rights as received by adults in a general setting.

In a trilogy of cases, the Court has essentially carved out a separate body of First Amendment law for public school students. In its 1969 decision, *Tinker v. Des Moines Independent Community School District*, the Court determined that school officials could not punish students for wearing black armbands to school to protest United States involvement in the Vietnam War because the armbands did not cause a substantial disruption of school activities.⁸ Under the *Tinker* standard, school officials cannot censor student speech at school unless they can reasonably forecast that the speech would cause a substantial disruption of school activities or invade the rights of others.

In the 1980s, a more conservative U.S. Supreme Court gave more deference to school officials to control student speech, particularly student speech that is school-sponsored. The Court ruled in *Bethel School District No. 403 v. Fraser* (1986) that school officials could suspend a student for delivering a lewd speech before the student assembly nominating a classmate for an elective office.⁹ The Court wrote that “the undoubted freedom to advocate unpopular and controversial views in schools and classrooms must be balanced against the society’s countervailing interest in teaching students the boundaries of socially appropriate behavior.”¹⁰ The Court added that “it is a highly appropriate function of public school education to prohibit the use of vulgar and offensive terms in public discourse.”¹¹

Finally, in its 1988 decision, *Hazelwood School District v. Kuhlmeier*, the Court ruled that school officials did not violate the First Amendment when they censored a school-sponsored student newspaper to prevent the publication of pieces on teen pregnancy and the impact of divorce upon teenagers.¹² The Court established the so-called Hazelwood standard for school-sponsored student speech: “[e]ducators do not offend the First Amendment by exercising editorial control



over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.”¹³

Many courts have applied the trilogy of public-school student U.S. Supreme Court cases as follows:

- *Hazelwood* applies to school-sponsored student speech.
- *Fraser* applies to vulgar and lewd student speech. A few courts will limit *Fraser* to lewd student speech that is school-sponsored, but many will apply it to all vulgar speech.
- *Timker* applies to all student-initiated student speech that is not governed by *Fraser*.

The question becomes how does student Internet speech fit into this jurisprudence. As one lower court has opined: “Unfortunately, the United States Supreme Court has not revisited this area for fifteen years. . . . Moreover, the advent of the Internet has complicated analysis of restrictions on speech.”¹⁴

A threshold question concerns whether the student’s Internet expression can be characterized as on campus or off campus. If the student Internet expression takes place off campus, there is an argument to be made that school officials simply do not have jurisdiction over the student’s speech. The matter would be one for parental, not school, discipline.

If students create Internet speech during class time or during a computer lab class, then school officials could sanction the student under the *Hazelwood* decision because when the student creates the content using school resources, the school may argue that the student speech is school-sponsored. If the student creates the Internet content at home but distributed copies of the content at school, it is likely that the *Timker* “substantial disruption” standard would apply.¹⁵

Students generally have broad freedom to express themselves on the Internet on their own time, using their own off-campus computers. However, some school officials have suspended students for off-campus Internet postings that lampooned or criticized school officials or contained vulgar commentary.

Some courts have sided with the students, stating that school officials may not censor student speech unless they can reasonably forecast that the speech will cause a substantial disruption of the school environment or invade the rights of others. Other courts and commentators have ruled that school officials simply lack the authority to regulate students’ off-campus behavior—on or off the Internet. Still other courts have ruled for the school, granting school officials broad authority when it comes to student Internet speech.

The lower courts certainly have decided student Internet speech cases differently. For example, in *Beussink v. Woodland R-IV School District* (1998), a federal court in Missouri ruled that school officials violated the First Amendment rights of a student when they suspended him for 10 days for including material on his personal home page that was critical of the school. A high school student named Brandon Beussink created a home page at his home that used vulgar language to criticize the principal, teachers, and other aspects of the school environment.¹⁶ Beussink did not use school computers to create his web page, although he apparently did access his home page in the school library.

After he was suspended, Beussink sued the school district, alleging a violation of his First Amendment rights. A federal judge agreed, finding that the principal committed a legal error in punishing Beussink simply because he disliked the content of the home page. The judge wrote: “Disliking or being upset by the content of a student’s speech is not an acceptable justification for limiting student speech under *Timker*.”¹⁷ The judge explained his ruling as follows: “The public interest is not only served by allowing Beussink’s message to be free from censure, but also by giving the students at Woodland High School this opportunity to see the protections of the United States Constitution and the Bill of Rights at work.”¹⁸

In another case, *Emmett v. Kent School District* (2000), a high school honors student in the state of Washington created a home page that contained mock obituaries of two of his friends. The Web site became a big topic of discussion at school, and apparently someone started a rumor that the Web site contained a hit list. The student who created the site was suspended for harassment, intimidation, disruption to the educational environment, and other violations.

The student sued in federal court, which sided with the student. The judge noted that the home page was created at home and was not created as part of any class project. The judge reasoned that although the intended audience was the school, “the speech was entirely outside of the school’s supervision or control.”¹⁹

However, in 2002, the Pennsylvania Supreme Court reached the opposite conclusion in another student Internet speech case, *J.S. v. Bethlehem Area School District*. The case involved a Web site created by an 8th-grader that contained derogatory comments about a math teacher and the principal. Much of the site was devoted to ridiculing the math teacher, comparing her to Adolf Hitler and making fun of her appearance.



The site even contained the sentence “give me \$20 to help pay for the hitman.”

School officials expelled the student, citing the extreme emotional distress suffered by the math teacher and the disruption the Web site apparently caused at the school. The student argued in a lawsuit that his web page was a form of protected speech.

The Pennsylvania Supreme Court sided with the school district in *J.S. v. Bethlehem Area School District*.²⁰ The Pennsylvania court dismissed the argument that the web page created on the student’s home computer was classified as off-campus conduct that was beyond the jurisdiction of school officials. In its decision the Pennsylvania Supreme Court wrote: “We find there is a sufficient nexus between the Web site and the school campus to consider the speech as occurring on-campus.”²¹ The Pennsylvania court determined that the contested speech qualified as on-campus speech because the student accessed the site at school, showed it to a fellow student, and informed other students of the site. “We hold that where speech that is aimed at a specific school and/or its personnel is brought onto the school campus or accessed at school by its originator, the speech will be considered on-campus speech,” the Pennsylvania court decided.²²

The Pennsylvania court reasoned that school officials could punish the student under the *Fraser* and *Tinker* standards. The school could punish the student under the *Fraser* standard because the speech on the Web site was clearly vulgar and highly offensive. It could punish the student under the *Tinker* standard because the Web site caused a substantial disruption of school activities.²³

The different results and reasoning used by the courts in these cases illustrate that the issue of student Internet speech is far from settled. It will probably take a decision by the U. S. Supreme Court to provide the necessary guidance to determine when student Internet speech is protected and when it is not.

Internet Content Laws: The Child Online Protection Act

Immediately after the U.S. Supreme Court’s decision in *Reno v. ACLU* (1997), Congress went to work to craft another federal law that would take into account some of the Court’s objections to the CDA. The result was the Child Online Protection Act (COPA), which Congress passed in October 1998.

COPA criminalizes the making of “any communication for commercial purposes” that is distributed via the World Wide Web and is “harmful to minors” based on so-called community

standards. *Community standards* is a legal term of great importance in obscenity-type cases. It means that a jury in a certain area can determine whether certain sexually oriented material can be banned. Penalties under COPA include a six-month imprisonment and \$50,000 fine for each violation.

Though dubbed by some critics as the “son of CDA,” in several respects, COPA is more narrowly drafted than the CDA. For example, COPA applies only to communications on the World Wide Web, as opposed to the CDA, which applied to the Internet as a whole, including material transmitted via e-mail. In addition, COPA purports to target only commercial pornographers, while the CDA clearly applied to anyone providing content on the Internet. Finally, COPA criminalizes only material that is “harmful to minors”—a recognized legal standard. In contrast, the CDA criminalized but did not define indecency, which was one reason the Court found the provisions pertaining to indecent speech in the CDA unconstitutional.

The day after COPA was signed into law, the American Civil Liberties Union and 16 other organizations challenged it on First Amendment grounds. These organizations ranged from general civil liberty groups to a distributor of condoms, a gay and lesbian bookstore, a Web site containing health information on obstetrics and gynecology, and a leading online magazine.

In February 1999, a federal judge in Philadelphia issued a preliminary injunction preventing enforcement of COPA pending the outcome of a full trial. He reasoned that voluntary use of filtering or blocking software could well be a less restrictive alternative to this broad law and its stiff fines and prison terms.²⁴ “The record before the Court reveals that blocking or filtering technology may be at least as successful as COPA would be in restricting minors access to harmful material online without imposing the burden on constitutionally protected speech that COPA imposes on adult users or Web site operators.”²⁵

“Indeed, perhaps we do the minors of this country harm if First Amendment protections, which they will with age inherit fully, are chipped away in the name of their protection,” wrote the federal judge.²⁶

The district court’s ruling was significant because it granted the plaintiffs an injunction, or legal order prohibiting enforcement of the law. When a litigant challenges the constitutionality of a law, that litigant usually asks the court to grant an order—a temporary restraining order, preliminary injunction, or permanent injunction—that stops the law from going into effect.

The government appealed the decision to the U.S. Court of Appeals for the Third Circuit. The government sought to



appeal because the district court's decision granting an injunction prohibited the government from enforcing the law. The government wanted a legal ruling upholding the constitutionality of the law.

In June 2000, the Third Circuit panel that heard the case also prevented enforcement of the law, although it did so on grounds that differed from those cited in the earlier decision by the federal district court. The Third Circuit decided that COPA's definition of "harmful to minors" with a "contemporary community standards" clause could not be applied in cyberspace.

The Third Circuit focused on the fact that "Web publishers are without any means to limit access to their sites based on the geographic location of particular Internet users."²⁷ As a result, the Third Circuit reasoned, Web publishers must ensure that their sites comply with the standards of the most stringent community. To the circuit court, COPA would lead to the suppression of too much speech. The circuit court reasoned that publishers would engage in self-censorship to avoid punishment in the most restrictive communities.

The government had argued in the case that traditional obscenity law provides that defendants could be held liable based on community standards as outlined in the 1973 decision *Miller v. California*.²⁸ But the Third Circuit panel was not persuaded, finding that the *Miller* test was inapplicable to the Internet and World Wide Web. The Third Circuit concluded that COPA could not be enforced pending a trial.

The government appealed the Third Circuit's decision to the U.S. Supreme Court in *Asbcraft v. ACLU*. On May 13, 2002, the high court ruled that the Third Circuit acted too quickly in refusing to allow the enforcement of COPA solely on the community-standards rationale.

The Court ruled 8-1 in *ACLU v. Asbcraft* to send the case back to the Third Circuit for further constitutional review.²⁹ Justice Clarence Thomas wrote in the Court's plurality opinion that the Court's obscenity cases establish that publishers must conform to different community standards. "If a publisher chooses to send its material into a particular community, this Court's jurisprudence teaches that it is the publisher's responsibility to abide by that community's standards," Thomas wrote. "The publisher's burden does not change simply because it decides to distribute its material to every community in the Nation."³⁰ Thomas also pointed out that striking down COPA because of its use of community standards would lead to the result that federal obscenity laws were unconstitutional as applied online.³¹

The Court's opinion, as Justice Thomas himself wrote, is "quite limited." Thomas emphasized that the Court was not deciding whether COPA, as a whole, was overbroad: "We do not express any view as to whether COPA suffers from substantial overbreadth for other reasons, whether the statute is unconstitutionally vague, or whether the District Court correctly concluded that the statute likely will not survive strict scrutiny analysis once adjudication of the case is completed below."³²

Other justices wrote separate opinions, largely to emphasize their difficulty with applying local standards to the Internet. For example, Justice Sandra Day O'Connor wrote in her separate opinion that "adoption of a national standard is necessary in my view for any reasonable regulation of Internet obscenity."³³

Justice Stephen Breyer indicated in his separate opinion that he believed Congress intended the word "community" to mean a national, rather than local, community. Otherwise, he wrote, "[t]o read the statute as adopting the community standards of every locality in the United States would provide the most puritan of communities with a heckler's veto affecting the rest of the Nation."³⁴

Only Justice John Paul Stevens, who wrote the Court's original decision in *Reno v. ACLU* striking down the CDA, dissented. In his dissenting opinion Justice Stevens wrote: "If a prurient appeal is offensive in a puritan village, it may be a crime to post it on the World Wide Web."³⁵

The case was sent back to the Third Circuit. On March 6, 2003, the three-judge panel of the Third Circuit again affirmed the district court judge's granting of a preliminary injunction, preventing the government from enforcing COPA. In its opinion the Third Circuit determined that COPA was not narrowly tailored enough to survive First Amendment review.

The panel focused on the definition of "harmful to minors" in COPA, which describes such material as "any communication, picture, image, file, article, recording, writing, or other matter of any kind" that satisfies the prurient interest, patently offensive and serious value prongs of the harmful to minors standard. The problem with this definition, according to the panel, is that one sexual image could be considered harmful to minors even "if it were to be viewed in the context of an entire collection of Renaissance artwork." COPA was flawed, according to the Third Circuit, because it did not distinguish between different ages in determining what is "harmful to minors." In other words, what is harmful to a 6-year-old may not be harmful for a 16-year-old. The appeals court also determined that COPA's definition of "commercial purposes" was too broad, applying to far more



than commercial pornographers. Additionally, the court said that the voluntary use of filtering software by parents was a less speech-restrictive alternative than a criminal law.

The government again appealed the Third Circuit's decision to the U.S. Supreme Court. On October 14, 2003, the Court agreed to examine the constitutionality of COPA in *Asbcraft v. ACLU* (03-218).

To Filter or Not to Filter? Internet Filing Laws

The Internet undoubtedly gives educators and students unparalleled access to more material important to the learning process. But the Internet amplifies the amount of all speech—from the informative and educational to the titillating and trivial. While providing minors with access to important educational material, the Net also operates as a portal to pornography and hate speech. Many parents, school officials, and legislators want to limit children's access to such harmful material.

One of the most common methods of attempting to control access to the Internet is through the use of filtering software that screens objectionable material. Many software companies sell filtering programs designed to protect children from online materials. Some of these include CyberPatrol, WebSense, X-Stop, Net Nanny, and Bess.

In the hands of parents, the installation of filtering products raises no First Amendment concerns because there is no government involvement. The First Amendment is violated only when the government infringes on the free expression rights of individuals. This is called the "state action doctrine." Constitutional violations occur only when the state is the entity affecting individual rights. Public libraries and public schools are state institutions. Thus, when public libraries or public schools install filtering software on school or library computers, First Amendment rights are implicated. When parents install filtering software on home computers, there is no state action and no First Amendment violation.

Various anti-censorship organizations, such as Peacefire and the former Project Censorware, have issued detailed reports showing that filters often block access to constitutionally protected material for older minors. In fact, a major complaint against filtering software is that often it applies a one-size-fits-all approach to material that may be unsuitable for a 7-year-old but quite suitable for a 17-year-old. Sites dealing with breast cancer, abortion, prison rape, AIDS, safe sex, and many others have been blocked by filtering software. Even the sites of several members of Congress have been blocked.

Proponents of filtering in public institutions argue that the software is necessary to prevent libraries from becoming purveyors of online peep shows. They contend that easy access to pornography could turn libraries from places of learning to sexually hostile environments for library employees and patrons. They also argue that the protection of minors is a compelling government interest of the highest order. Opponents counter that filtering software limits access to information and fails to distinguish between material that can be constitutionally prohibited and material that is constitutionally protected, especially for adults and older minors.

Before the first filtering cases, perhaps the closest analogy in case law was the U.S. Supreme Court's 1982 book censorship decision, *Board of Education v. Pico*.³⁶ In its *Pico* decision, the Court ruled that public school officials violate the First Amendment when they remove books from a library shelf because they disagree with the ideas presented in the books. However, the Court pointed out that its decision applied only to decisions by school officials with regard to the removal of books; it did not apply to the initial acquisition of books.

Filtering opponents argue that filtering the Internet is akin to removing material from the library shelves. It is like providing an educational resource and then deleting selected pages. Filtering proponents counter that filtering the Internet is merely akin to a library acquisition decision. They compare filtering smut on the Internet to a library decision not to subscribe to X-rated magazines.

Not many court decisions involve filtering because it is a relatively recent phenomenon. The first major filtering case arose at a public library in Virginia. The public library board had established a policy requiring mandatory filtering of all computer terminals, including those used only by adults. The policy soon faced a federal lawsuit. In November 1998, a federal judge in the case, *Mainstream Loudoun v. Board of Trustees of the Loudoun County Public Library*, struck down the policy that required the mandatory installation of filtering software on all computer terminals—adults' and children's—at the public library. The Loudoun County library trustees maintained that they adopted the policy to protect kids and to prevent a sexually hostile environment from developing at the library. U.S. District Judge Leonie Brinkema said the policy "offends the guarantees in the First Amendment."³⁷ The judge ruled that the library board did not present enough evidence of potential harm to support a policy that would dramatically limit access to material in a public library.



Despite this federal court decision striking down the mandatory-filtering policy, state and federal legislators have continued to press forward with filtering legislation.

By far the most important federal law passed by Congress is the Children's Internet Protection Act, or CIPA. Passed in December 2000, CIPA requires public schools and public libraries to install a "technology protection measure" and to adopt an Internet-use policy to receive federal funds for Internet hookups. Specifically, the law contains two provisions that prohibit libraries from receiving funds under the Library Services and Technology Act and the "E-rate discounts" if filters are not installed.

The American Library Association (ALA) and the American Civil Liberties Union (ACLU) filed separate lawsuits in a federal district court in Philadelphia to challenge the constitutionality of CIPA. Both interest groups challenged the sections of the law dealing with public libraries. The interest groups made a strategic decision to challenge the law only as it applied to public libraries because libraries more directly involve the rights of adults.

In the separate lawsuits that were eventually consolidated, both the ALA and the ACLU contended that the new law unconstitutionally forces libraries to restrict speech or forgo vital federal funds. Both groups maintain that the federal law turns libraries, traditionally places of freedom, into bastions of censorship.

The government countered that the challenged provisions of CIPA were merely valid exercises of Congress's spending power under Article I, § 8, cl. 1, which provides that "Congress shall have Power . . . to pay the Debts and provide for the common Defence and general Welfare of the United States."

A special panel of three federal judges considered the consolidated cases, *ALA v. U.S.*, and heard seven days of testimony in March and April 2002. The plaintiffs presented evidence showing that many commonly used filters restrict too much constitutionally protected material. One exhibit showed 395 Web sites blocked by filtering products. These included music sites, gay and lesbian magazines, a Planned Parenthood site, a plastic-surgery site, and art galleries.

The CIPA Decision

On May 31, 2002, the panel of three federal judges—Third Circuit Judge Edward Roy Becker and federal District Court Judges John Fullam and Harvey Bartle III—ruled in favor of the plaintiffs in *ALA v. U.S.*³⁸ The federal court decision cited the plaintiffs' evidence that the filtering programs "overblocked" or restricted access to constitutionally protected material. "At least tens of thousands of pages of the indexable Web are

overblocked by each of the filtering programs evaluated by experts in this case, even when considered against the filtering companies' own category definitions," the federal court panel wrote. "Because of the inherent limitations in filtering technology, public libraries can never comply with CIPA without blocking access to a substantial amount of speech that is both constitutionally protected and fails to meet even the filtering companies' own blocking criteria."

The government argued that Congress had the right under its spending power to tie federal funds to the libraries' use of filtering programs. But the plaintiffs contended that the spending power could not be used to force libraries to violate the First Amendment. The government also argued that the use of filters presented no constitutional problem in part because it was similar to the editorial discretion that libraries must exercise every day concerning which books to acquire for their collections.

The court rejected the analogy between the collection development discretion involved in choosing books to acquire for a library and filtering Internet access. According to the federal court panel, by providing Internet access the library had created a designated public forum, and as such, this public forum was due broad First Amendment protections.

According to the federal court panel, several less speech-restrictive alternatives than the filtering requirement of CIPA are available that would not block substantial amounts of constitutionally protected speech. These included adopting Internet-use policies coupled with Internet-use logs, requiring minors to use certain computers that are in direct view of library staff, placing unfiltered terminals in remote locations, and installing privacy screens or recessed monitors to prevent patrons from being exposed to material viewed by others. The federal court acknowledged in its decision that some of the alternatives could create problems of their own. For example, the judges recognized that privacy screens and recessed monitors are costly. However, the federal court panel concluded that the problems with the less restrictive alternatives were "not insurmountable" and that the government had failed to show convincingly that the alternatives would be ineffective.

U.S. Supreme Court Review of CIPA

The government appealed the district court panel's decision to the U.S. Supreme Court. On June 23, 2003, the Court ruled 6-3 in *United States v. ALA* (02-361) that CIPA was constitutional, reversing the lower court decision. Under the Court's decision, public libraries will need to install Internet filters on



computers with Internet access to continue to receive federal funds for Internet hook-ups. Writing for the plurality, Chief Justice William Rehnquist reasoned that under the “spending clause” of the U.S. Constitution (Article I, § 8, cl. 1) “Congress may attach conditions to receipt of federal funds, in order to further policy objectives.” The policy objective of the CIPA was to protect young people from illegal and harmful online pornography.

Chief Justice Rehnquist’s opinion disagreed with the lower court decision that Internet access in a public library constituted a public forum, and, as such, called for a heightened form of judicial scrutiny (i.e. strict scrutiny). In First Amendment law, speech protections are greater in places known as traditional or designated public forums than in places considered to be nonpublic forums. Rehnquist reasoned that libraries provide Internet access not to facilitate a diversity of viewpoints, a common goal of public forums, but to “facilitate research, learning, and recreational pursuits by furnishing materials of requisite and appropriate quality.” He wrote that it was reasonable to prevent access to pornography on the Internet because collection development policies of public libraries do not generally include direction to acquire pornographic print material. In other words, if libraries do not develop print pornography collections, why should they provide online pornography to patrons?

The lower court decision had also focused on the alleged problems of “overblocking” with filtering software. The plurality opinion noted that libraries could address concerns about the overblocking of protected material by disabling the filtering software on patrons’ requests. Because the Court

determined that the rationale for providing Internet access at public libraries was not to create public forums, CIPA did not need to satisfy the highest form of judicial review or “strict scrutiny.” The existence of less speech-restrictive ways of protecting children from online pornography was immaterial, according to the Court. Furthermore, if a public library wished to provide unfiltered access, it would be free to refuse federal funds for Internet connections.

Three justices—John Paul Stevens, David Souter and Ruth Bader Ginsburg—dissented, with Stevens and Souter each writing a separate opinion. Stevens characterized CIPA as a “statutory blunderbuss” that censored too much constitutionally protected speech. Souter compared filtering the Internet to purchasing books and “cutting out pages with anything thought to be unsuitable for all adults.” The U.S. Supreme Court’s decision means that public libraries and public schools will continue to filter Internet access if they wish to receive federal funds. It is unlikely, however, that the filtering controversy will disappear.

Conclusion

The development of the law regarding the First Amendment and the Internet will continue to evolve, particularly in the area of student speech. Meanwhile, Congress has ventured into the area of “cyberzoning” with the passage of The Dot Kids Implementation and Efficiency Act. Signed into law in December 2002, the act seeks to create a part of the Internet “analogous” to a “children’s section within a library,” which could lead to new constitutional challenges.

Endnotes

- 1 *Reno v. ACLU*, 929 F.Supp. 824, 883 (E.D. Pa. 1996) (Dalzell, J.)
- 2 Robert Corn-Revere, “Red Lion and the Culture of Regulation,” in *Rationales & Rationalizations: Regulating the Electronic Media* (Washington D.C.: The Media Institute, 1997), 1–18.
- 3 *Id.* at 1.
- 4 Rodney Smolla, *Free Speech in an Open Society* (New York, N.Y.: Alfred A. Knopf, 1992), 338.
- 5 *Mutual Film Corp. v. Industrial Comm’n of Ohio*, 236 U.S. 230 (1915).
- 6 521 U.S. 844 (1997).
- 7 *Id.* at 885.
- 8 393 U.S. 503 (1969).
- 9 478 U.S. 675 (1986).
- 10 *Id.* at 681.
- 11 *Id.* at 683.
- 12 484 U.S. 260 (1988).
- 13 *Id.* at 273.
- 14 *J.S. v. Bethlehem Area School District*, 807 A.2d 847, 863–864 (Pa. 2002).
- 15 See David L. Hudson, Jr., “Censorship of Student Internet Speech: The Effect of Diminishing Student Rights, Fear of the Internet and Columbine,” 2000 *L. Rev. M.S.U.-D.C.L.* 199, 219–221 (2000).
- 16 30 F.Supp. 2d 1175 (E.D. Mo. 1998).
- 17 *Id.* at 1180.
- 18 *Id.* at 1182.
- 19 *Emmett v. Kent Sch. Dist., No. 415*, 92 F.Supp. 2d 1088, 1090 (W.D. Wash. 2000).
- 20 807 A.2d 847 (Pa. 2002).
- 21 *Id.* at 865.
- 22 *Id.*
- 23 *Id.* at 867–869.
- 24 *Reno v. ACLU*, 31 F.Supp. 2d 473 (E.D. Pa. 1999).
- 25 *Id.* at 497.
- 26 *Id.* at 498.
- 27 *Reno v. ACLU*, 217 F.3d 162, 175 (3rd Cir. 2000).
- 28 413 U.S. 15 (1973).
- 29 122 S.Ct. 1700 (2002).
- 30 *Id.* at 1712.
- 31 *Id.*
- 32 *Id.* at 1713.
- 33 *Id.* at 1714 (J. O’Connor, concurring).
- 34 *Id.* at 1716 (J. Breyer, concurring).
- 35 *Id.* at 1723 (J. Stevens, dissenting).
- 36 457 U.S. 853 (1982).
- 37 24 F.Supp. 2d 552 (E.D. Va. 1998).
- 38 *American Library Association v. United States*, 201 F.Supp. 2d 401 (E.D. Pa. 2002).
- 39 ACLU to Meet ACLU Legal Challenge of Children’s Internet Protection Act. http://www.aclu.org/news/nr_010320_aclj_challenge_aclu.asp
- 40 *United States v. American Library Association* 123 S.Ct. 2297 (2003).



Web Resources

National Online Youth Summit Web Site Access Denied: Should Youth Access to the Internet Be Restricted? <http://www.abanet.org/publiced/noys/03/home.html>

Fahrenheit 451.2: Is Cyberspace Burning? American Civil Liberties Union position paper on filters. <http://www.aclu.org/Cyber-Liberties/CyberLiberties.cfm?ID=9997&c=55>

CIPA. American Library Association's resources on the Children's Internet Protection Act. <http://www.ala.org/Template.cfm?Section=CIPA&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=3&ContentID=559>

Free-speech Issues. Center for Democracy and Technology. <http://www.cdt.org/speech/>

Digital Chaperones: Which Internet Filters Protect the Best? Which Get in the Way? *Consumer Reports* http://www.consumerreports.org/main/detailv2.jsp?CONTENT%3C%3Ecnt_id=18867&FOLDER%3C%3Efolder_id=18151&bmUID=1041266219960

Child Online Protection Act Commission. <http://www.copacommission.org/commission/>

Free Speech Online. Electronic Frontier Foundation. <http://www.eff.org/br/>

Enough is Enough. Anti-pornography group that supports filtering legislation <http://www.enough.org/>

Family Friendly Libraries. <http://www.fflibraries.org/>

Faulty Filters. Electronic Privacy Information Center (1997). <http://www2.epic.org/reports/filter-report.html>

Cybersmut. Freedom Forum series on Internet and First Amendment (1998). <http://www.freedomforum.org/templates/document.asp?documentID=14819>

Fact Sheets: Internet Files & Media Violence. Information from the Free Expression Policy Project <http://www.fepproject.org/factsheets/filtering.html>

Internet Filters: A Public Policy Report. Free Expression Policy Project. <http://www.fepproject.org/policyreports/filteringreport.html>

See No Evil: How Internet Filters Affect the Search for Online Health Information. Kaiser Family Foundation (2002). <http://www.kff.org/content/2002/20021210a/>

Internet Pornography: Are Children At Risk? National Academies of Science National Research Council. <http://www4.nationalacademies.org/onpi/webextra.nsf/web/porn?OpenDocument>

National Telecommunications Information Agency. Government agency principally devoted to technology issues. <http://www.ntia.doc.gov/>

N2H2. A leading filtering company. <http://www.n2h2.com/index.php>

PeaceFire. A youth-based group opposed to mandatory filtering. <http://www.peacefire.org/>

Websense. Another filtering company. <http://www.websense.com/>



Student Activities

Contemporary Community Standards and the First Amendment

Throughout history Americans have believed in the legal principle that maintaining public decency should be within a community's self-policing powers. U.S. Supreme Court decisions on the First Amendment have referred to/used contemporary community standards to determine limits on three categories of speech: (1) obscenity; (2) indecency; and (3) speech that is "harmful to minors" or "obscene as to minors." Discussions of "contemporary community standards" have raised questions about how we should determine what these "contemporary community standards" should be and how the criteria might evolve over time.

1. Ask students to read or research the Court decision in *Roth v. United States*, 354 U.S. 476 (1957). As a way to help students focus their reading or research, suggest they explore and answer one or more of the following reading/research questions.
 - a. What are the main question(s) about the law that the case sought to answer about speech? Explain how the Supreme Court resolved the main question(s) about the law in its decision. In other words, what were the precedents established through the decision, and how do they apply to everyday life?
 - b. What category of speech did the *Roth* decision seek to define by establishing a three-tiered test? Describe the three criteria/tiers of the test.
 - c. What did the Court decide about how we should determine which community standards to apply in a First Amendment speech situation and why? Explain, in your own words, the Court's interpretation of how we should determine which community standards to apply and the reasons presented in the decision.
2. Ask students to read or research the Court decision in *Miller v. California*, 413 U.S. 15 (1973). What category of speech did the *Miller* decision seek to define? What guidelines did the Court give in *Miller* to help juries determine whether speech fit this category? Compare the criteria outlined in *Miller* with the criteria outlined in the *Roth* decision.
3. Ask students to compare what the Court wrote about community standards in the decision in the *Miller* case with what the Court wrote about community standards in the decision in the *Roth* case. Ask students to explain, in their own words, the two different interpretations about how we should determine "contemporary community standards" and the rationale provided in the decision for each case.
4. Ask students to read or research the Court decision in *Reno et al. v. American Civil Liberties Union et al.*, 521 U.S. 844 (1997). As a way to help students focus their reading or research, suggest they explore one or more of the following questions.
 - a. What range of Internet activities and materials were illegal under the original Communications Decency Act (1996)?
 - b. What did the Court argue in *Reno* about applying community standards criteria established through legal precedents to speech on the Internet? In your own words, explain the Court's rationale.
 - c. Describe one provision to regulate speech contained in the original Communications Decency Act (1996) that the Court found unconstitutional in *Reno*. Why did the Court find the provision unconstitutional?
5. Ask students to research how the law has treated speech presented in different media, such as broadcast radio. As a way to help focus their research, suggest they explore one or more of the following questions.
 - a. What reasons did the Court give for greater government regulation of broadcast media than other forms of speech in *Federal Communications Commission v. Pacifica Foundation*, 438 U.S. 726 (1978), and why?
 - b. Compare and contrast the argument about the nature of broadcast media in the Court decision in *Federal Communications Commission v. Pacifica Foundation* to the argument about the nature of the Internet as a medium in the Court decision in *Reno v. ACLU*. What

Activities for "Contemporary Standards and the First Amendment" and "Speech 'Harmful to Minors'" by Michelle Parrini, Program Manager, American Bar Association Division for Public Education.



did the Court write in its decision in the *Reno* case about application of the *Pacifica* precedents to the Internet?

Speech “Harmful to Minors”

The courts have ruled that some types of speech are not legally protected under the First Amendment. One such unprotected category is obscene speech. Indecent speech, which is a separate speech category, is protected under the First Amendment in some instances but must be regulated in others. Another type of speech that the courts have decided may be regulated is speech that is called “harmful to minors” or “obscene as to minors.”

1. Ask students to read or research the U.S. Supreme Court decision in *Butler v. Michigan*, 352 U.S. 380 (1957). What are the main question(s) about the law that the *Butler* case sought to answer about speech? How did the Court resolve the main question(s) about the law in this case? In other words, what were the precedents established through the decision? How do the precedents apply to everyday life?
2. Ask students to explore the use of precedents in cases involving speech harmful to minors by explaining how the precedents established in *Butler v. Michigan* were used to construct a logical argument in the opinion of the U.S. Supreme Court in the case *Reno v. ACLU*.
3. Ask students to read or research the U.S. Supreme Court decision in *Ginsberg v. New York*, 390 U.S. 629 (1968). As a way to help students focus their reading or research, suggest they explore one of the following questions.
 - a. What are the main questions about the law that the case sought to answer about categories of speech, and what were the names of those categories of speech?
 - b. How did the Court resolve the main question(s) about the law in this case? In other words, what were the precedents established through the decision, and how do they apply to everyday life?
 - c. What did the Court decide in *Ginsberg* about the role of parents in assessing material for their children? What did the Court decide in *Ginsberg* about how we are to determine what is suitable for minors?
4. Ask students to read the U.S. Supreme Court decision in *Federal Communications Commission v. Pacifica Foundation*, 438 U.S. 726 (1978). What are the main questions about the law that the case sought to resolve about categories of speech, and what were the names of those categories of speech? Ask students to explain how the Court resolved the main question(s) about the law in this case. In other words, what were the precedents established through the decision, and how do they apply to everyday life?
5. Ask students to research several state “harmful to minors” statutes, which are also referred to as “obscene as to minors” statutes. As a way to help students focus their research, suggest that they compare the “harmful to minors” statutes of three states. Ask students to explain the ways in which the statutes are the same and the ways in which the statutes are different. As an additional activity, have students find “harmful to minors” statutes of three states with provisions that apply directly to the Internet. Ask them to explain how those particular provisions apply to the Internet and what kind of activity is considered illegal under the provisions.

Please note: You may wish to discuss statutory/legislative law.



Student First Amendment Rights on Campus

There have been a number of U.S. Supreme Court cases that have dealt with student First Amendment speech rights on campus. Three significant cases in this area are

- *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969);
- *Bethel School District No. 403 v. Fraser*, 478 U.S. 675 (1986); and
- *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988).

1. Ask students to identify the limits of First Amendment rights on campus, as well as the standards that have been established in the cases listed above. Ask students to summarize the facts in the cases, as well as the decisions of the Court. Ask students to describe the kinds of limits that schools can place on student speech/expression as established in these cases. Students should also identify two kinds of student speech/expression that schools may restrict and explain why.
2. As an extension activity, ask students to think about the standards established for student school expression in *Tinker*, *Fraser*, and *Hazelwood*. Also ask them to speculate about the kinds of limitations, if any, schools can legally place on student Internet expression. Have students write a “mock” U.S. Supreme Court decision about student Internet expression. They should use the precedents established in *Tinker*, *Hazelwood*, and *Fraser* standards to inform the arguments presented in their “decisions.”

Student First Amendment Rights and the Internet

To consider student First Amendment speech and the Internet, students will need to be familiar with the precedents established in *Tinker*, *Hazelwood*, and *Fraser* (see above).

1. Ask students to identify some of the issues that have arisen from the lower court rulings on student Internet expression. Three possible lower court cases are
 - a. *Beussink v. Woodland R-IV School District*, 30 F.Supp. 2d 1175 (E.D. Mo. 1998);

- b. *Emmett v. Kent School District, No. 415*, 92 F.Supp. 2d 1088, 1090 (W.D. Wash. 2000); and
- c. *J.S. v. Bethlehem Area School District*, 807 A.2d 847 (Pa. 2002).

Ask students to explain how the court(s) use one or more of the *Tinker*, *Hazelwood*, and *Fraser* standards, if applicable, to support the decisions in these student Internet speech cases.

2. Ask students to compare and contrast the major points of the decision in *Beussink v. Woodland R-IV School District* with the major points of the decision in *J.S. v. Bethlehem Area School District*.
 - a. What were the facts of each case? What did the court rule in each decision and in favor of whom?
 - b. How did the court use one or more of the *Tinker*, *Hazelwood*, and *Fraser* standards, if applicable, to support its decision in each case?
 - c. Based on a comparison of the rulings in the cases, what areas of the law appear unclear with respect to student Internet speech created off campus?
3. Ask students to compare and contrast the major points of the decision in *Emmett v. Kent School District, No. 415* with the major points of the decision in *J.S. v. Bethlehem Area School District*.
 - a. What were the facts of each case? What did the court rule in each decision and in favor of whom?
 - b. How did the court use one or more of the *Tinker*, *Hazelwood*, and *Fraser* standards, if applicable, to support its decision in each case?
 - c. Based on a comparison of the rulings in the cases, what areas of the law appear unclear with respect to student Internet speech created off campus?



Internet Filtering in the United States

Internet filtering is a technology designed to block user access to certain Web sites based on the Web site's content. Users of filtering software in the United States include

- Employers, to block employees' access to certain sites while they are on the job
- Schools, to block students' access to sites containing potentially inappropriate material
- Public libraries, to block sites carrying material that violates library policy
- Parents, to control their children's access to sites on computers at home

Congress has passed three laws attempting to regulate access to certain Web sites. The first is the Communications Decency Act, passed in 1996, which was struck down by the U.S. Supreme Court on First Amendment grounds. The second is 1998's Child Online Protection Act, enforcement of which has been prevented by the federal courts while they consider whether it too violates the First Amendment. The third is the Children's Internet Protection Act (CIPA) of 2000. The U.S. Supreme Court accepted this case, *American Library Association v. United States*, and issued its decision on June 23, 2003.

1. Ask students to explore some of the issues surrounding the Children's Internet Protection Act (CIPA) and *American Library Association v. United States*. As a way to help students focus their research, suggest they explore one or more of the following questions.
 - a. What does CIPA seek to accomplish? Who is directly affected by the legislation? Who else might the legislation affect?
 - b. What is the story of *American Library Association v. United States*? Who initiated the lawsuit (that is, who are the plaintiffs) and what was their interest in doing so? What arguments do the plaintiffs make against the legislation in question in the case (CIPA)? What arguments have been made for upholding CIPA against the plaintiffs' challenge?
 - c. What were the major questions to be considered by the Court about CIPA in *American Library Association v. United States*? What did the federal court rule on CIPA in its decision? What were the arguments about CIPA and the First Amendment that were the basis of the federal

court's ruling about CIPA? What did the U.S. Supreme Court decide in the case? How did the high court's arguments to support its ruling compare to those of the lower court?

2. Ask students to research the Internet filtering software offered by at least two different companies. What are some of the content areas that these software programs are designed to block? Describe the range. Ask students to determine if some of the content areas blocked by the filtering software are entitled to First Amendment protection. Why or why not?
3. Ask students to research the terms "overblocking" and "underblocking" in the context of the Internet and filtering. Ask them to speculate about whether First Amendment issues are raised by these terms. If problems of overblocking and underblocking could be fixed, would Internet filtering still raise First Amendment issues? Why or why not?
4. Ask students to determine who is responsible for controlling access to Web sites under the provisions of each of the three pieces of congressional legislation that were intended to regulate access of young people to the Internet: the Communications Decency Act (1996), the Child Online Protection Act (1998) and the Children's Internet Protection Act (2000)? Do differences about where responsibility is situated for controlling access to Web sites under each provision strengthen or weaken First Amendment challenges to the laws? Why or why not? Ask students if their opinion is based on legal precedent. If so, which precedent?

Internet Filtering Abroad

In the United States, efforts to "filter" or block access to certain Internet Web sites are subject to the First Amendment, which protects citizens' freedoms of religion, speech, press, assembly, and petition. The main focus of legislative efforts to restrict Internet access in the United States has been limiting access by young people to Web sites containing pornographic or obscene materials—which are not given the same First Amendment protections as other forms of speech—or other content deemed harmful to minors.

Ask students to research the use of Internet filtering technologies in at least three other countries. As a way to focus their research, suggest they explore one of the following questions.



- a. What types of Internet content do the countries you have identified attempt to make inaccessible?
- b. What are the reasons for blocking Internet access in the countries you have identified (political, religious, cultural, and/or others)?
- c. What technologies are used to filter Internet content in the countries you have identified?
- d. How effective is Internet filtering technology in blocking user access to banned Web sites in the countries you have identified? In other words, can users get around the filtering technology? Do users who try to get around the filtering technology risk punishment for doing so? If so, describe the punishments.
- e. What effect would a law or constitutional guarantee similar to the First Amendment have on current Internet filtering practices in the countries you have identified? Would any of these filtering practices still be permissible?

Media Impact on Youth

Entertainment comes in many forms—literature, comic books, music, video games, television, and film—and has often been scrutinized regarding its effects on the development of youth, especially where violence and sexual references or images are concerned. This scrutiny is nothing new; books have been banned and/or burned for centuries. Differences exist among experts about what causes human beings to become violent or hold distorted expectations about conflict resolution, race, and male-female relationships, and different studies draw different conclusions about the correlation between visual media and antisocial behavior. Examples of media that have been banned or have come under scrutiny include

- *Batman and Tales from the Crypt* comics;
- Video games such as “Doom” and “Mortal Kombat”;
- Films such as *Money Train*, *The Matrix*, and *The Basketball Diaries*;
- TV programs such as *South Park*; and
- Popular music from Elvis Presley to heavy metal to rap and hip hop.

1. Ask students to conduct research to find studies on violence in video games and its effects, if any, on youth development/behavior. Research two different studies or compare two

sources about the same study. Some questions to think about are

- a. Who published and/or funded each study? How was each study structured (was it conducted in a laboratory or was it a field study)? What questions were researched and what methods were used to collect the information? If you compared two studies, what are the findings of each study? How do the results of the studies differ? Do they reach any similar conclusions? What factors besides exposure to these games, if any, must be taken into account when looking at antisocial behavior in youth, according to these studies? What conclusions may be drawn?
 - b. If you compared two sources about the same study, what does each source claim about the study? How are the claims similar and/or different? What conclusions do the sources make about the study? How are the conclusions similar or different?
 - c. Do you agree with the findings? Why or why not?
2. Ask students to conduct research to find studies on violence on television and its effects on youth development/behavior. Research two different studies or compare two sources about the same study. Some questions to think about are
 - a. Who published and/or funded each study?
 - b. How was each study structured (was it conducted in a laboratory or was it a field study)? What questions were researched and what methods were used to collect the information?
 - c. If you compared two studies, what are the findings of each study? How do the results of the studies differ? Do they reach any similar conclusions? What factors besides exposure to television violence, if any, must be taken into account when looking at antisocial behavior in youth, according to these studies? What conclusions may be drawn?
 - d. If you compared two sources about the same study, what does each source claim about the study? How are the claims similar and/or different? What conclusions do the sources make about the study? How are the conclusions similar or different?



- e. Do you agree with the findings? Why or why not?
3. Ask students to conduct research to find studies on violence in the movies and its effects on youth development/behavior. Research two different studies or compare two sources about the same study. Some questions to think about are
 - a. Who published and/or funded each study?
 - b. How was each study structured (was it conducted in a laboratory or was it a field study)? What questions were researched and what methods were used to collect the information?
 - c. If you compared two studies, what are the findings of each study? How do the results of the studies differ? Do they reach any similar conclusions? What factors besides exposure to movie violence, if any, must be taken into account when looking at antisocial behavior in youth, according to these studies? What conclusions may be drawn?
 - d. If you compared two sources about the same study, what does each source claim about the study? How are the claims similar and/or different? What conclusions do the sources make about the study? How are the conclusions similar or different?
 - e. Do you agree with the findings? Why or why not?
 4. Ask students to conduct research on the positions both for and against government involvement in regulating exposure to content of movies, television, and/or Internet content for youth.
 - a. Find two sources that argue for government regulation of material for youth. What media are discussed in the articles? What are the arguments made by each of the sources supporting government regulation? Do you agree or disagree with the arguments made by each source? Why or why not?
 - b. Find two sources that argue against government regulation of material for youth. What media are discussed in the articles? What are the arguments made by each of the sources? Do you agree or disagree? Why or why not?
 5. Ask students to conduct research about at least one solution that has been proposed to help parents monitor or restrict access to materials that their children are exposed to through

one of the following types of media: radio, television, movies, video games, or music recordings.

- a. What is the solution that you have researched and what type(s) of media does it seek to help parents monitor?
- b. How does it work?
- c. What do two sources say about its effectiveness?
- d. Do you agree or disagree with the assessment of the two sources on the effectiveness? Why or why not?

Please note: When studying media impact on youth, you will want to define the terms *correlation* and *causation* for students. They should understand that co-existence of two or more factors in a situation do not necessarily establish a causal relationship.

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PC # 336000207 ISBN: 1-59031-263-5

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Teaching Resource Bulletins are published on an occasional basis by the American Bar Association Division for Public Education. Bulletins are designed to provide scholarly perspectives, teaching strategies, and bibliographical information on a wide variety of law-related topics. Particular emphasis is placed on themes and topics.

Prepared under Grant #2001-JS-FX-K004 from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Office of Justice Programs, U.S. Department of Justice; we are grateful for the support.

The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association and, accordingly, should not be construed as representing the policy of the American Bar Association, nor do they represent the official position or policies of the U.S. Department of Justice or the American Bar Association Standing Committee on Public Education.

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Produced by Creative Services Associates, Inc.

Office of Juvenile Justice and Delinquency Prevention

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