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## The AALL Washington E-Bulletin

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## **SPECIAL ANNOUNCEMENT**

### **The New Washington Affairs Office Blog!**

The Washington Affairs Office is pleased to announce the release of its new blog, named [AALL's Washington Blawg](#). The Washington Blawg will keep you up-to-date about the policy issues that matter to AALL. We will cover legislative, judicial and regulatory activities on the state, national, and international levels and address important topics such as access to government information, [digital authentication](#), copyright, and open government issues. You may sign up to receive an [RSS feed](#) of the blog or an [email](#) every time the Blawg is updated. Please [let us know](#) what you think of the blog!

We will continue to use the [Advocacy Listserv](#) to communicate with you about our advocacy issues and encourage you to post items about what is happening legislatively in your state. We will also continue to publish this monthly [E-Bulletin](#) to give you a broader picture of what's going on in Congress and what the Washington Office is doing.

## **UPDATES FROM THE HILL**

### **GPO Authenticates Online Budget**

Causing a commotion on Capitol Hill and within the large community that pours over the budget numbers each year, the White House released in early February an online-only version of the 2,200 page [budget for FY 2009](#). Easing the minds of those who monitor the budget, the Government Printing Office quickly announced it would also publish the budget in print and distribute 1 or 2 sets at no cost to members of Congress. GPO has also distributed the print version of the new budget to federal depository libraries. GPO also [made available](#), with the approval of the [Office of Management and Budget](#) (OMB), an [authenticated online version](#) of the budget through GPO Access, using the [same technology GPO uses](#) to authenticate the online versions of public and private laws.

### **White House Attempts to Change OPEN Government Act**

The Bush Administration's proposed [FY 2009 budget](#) attempts to change the provision in the [Open Government Act](#) that establishes a new Office of Government Information Services (OGIS) at the [National Archives and Records Administration](#) (NARA). This action goes against the letter of the law. Congress clearly intended that the OGIS be an independent body, thus its location at NARA. However, the FY 2009 budget gives the [Department of Justice](#), which is responsible for representing the government in FOIA lawsuits, the funding needed to establish the OGIS.

Allowing DOJ to oversee the office in charge of FOIA mediation services creates a major conflict of interest and contradicts both the spirit and the letter of the law. AALL signed onto letters to [House](#) and [Senate](#) Appropriations Committees sent by [OpenTheGovernment.org](#) to Congressional appropriators to express concern. In addition, the original co-sponsors of the *OPEN Government Act*, Senators [Patrick Leahy](#) (D-VT) and [John Cornyn](#) (R-TX), sent OMB Director Jim Nussle a [letter](#) expressing their strong opposition to the proposal. We hope that the appropriators will provide the necessary funds to establish the Office of Government Information Services at NARA, as the *OPEN Government Act* requires.

### **Orphan Works Act of 2006 ([H.R. 5439](#))**

In 2005, Copyright Office staff began an [investigation](#) into the problems raised by orphan works, a term which refers to the large volume of works that are likely still protected by copyright although their owners cannot be located after a reasonable effort. They held a number of meetings that included in-put from museums, libraries, publishers and other content owners. The House Judiciary Committee held a [hearing on orphan works](#) in March 2006. Maria Pallante, the then-Associate General Counsel and Director of Licensing at The Solomon R. Guggenheim Foundation who now works at the Copyright Office, [testified](#) on behalf of 17 organizations, including AALL, in support of a legislative fix.

AALL strongly supported the *Orphan Works Act of 2006* ([H.R. 5439](#)) introduced in May 2006 by [Rep. Lamar Smith](#) (R-TX-21), but the bill never made it out of committee. Importantly, the House Judiciary Committee recognized that the availability of statutory damages would inhibit a wide range of beneficial uses of orphan works. The 2006 bill would ensure that remedies for infringement of a copyrighted work would be limited if the user had made a “reasonably diligent search” for the copyright owner.

Now that the House and Senate Judiciary Committees have completed their work on patent reform, we hope they will now turn their attention to orphan works and introduce a new bill in the coming months.

### **Open Access to Research & the Law**

As reported in last month’s [E-Bulletin](#), the [FY 2008 omnibus appropriations bill](#) contained a provision to establish a [new policy](#) directing the National Institutes of Health (NIH) to provide the public with free online access to findings from its funded research. The law directs the National Institutes of Health (NIH) to require every scientist who publishes the results of research funded by an NIH grant in a peer-reviewed journal to deposit a digital copy of the article in [PubMed Central](#) (PMC), the online digital library maintained by the NIH. The public will be able to access these articles through PubMed Central for free. Beginning on April 7, 2008, all articles accepted for publication must be deposited in PubMed Central.

Efforts to provide open access to the law and to academic research have also been in the spotlight recently. On February 11, [Creative Commons](#) and [Public.Resource.Org](#), led by Lawrence Lessig and Carl Malamud, announced a new release of [federal case law](#) they purchased and are making available for public use. The release covers all U.S. Supreme Court decisions and all Courts of Appeals decisions from 1950 forward. According to their [press release](#), the case law was provided by Fastcase, Inc. which recently announced its new [Public Library of Law](#). The PLoL is a free online database that makes searchable all the free legal resources that exist on the Internet, plus an additional 10 years of case law from all 50 states. In addition, as we announced late last year, PACER is now available at no-fee at [ten law libraries](#) because of a joint pilot project by the Government Printing Office and the Administrative Office of the United States Courts

In the academic world, Harvard University's Faculty of Arts and Sciences approved a [plan](#) on February 12 to require faculty members to grant Harvard College permission to make available his or her scholarly articles. The Provost's Office may make these articles available to the public in an open-access repository. The trend to open access is one that AALL strongly supports and we applaud these efforts.

### **New Legislation on Net Neutrality**

Since Congress first took up the issue of net neutrality a couple of years ago, AALL has supported legislative efforts that assure the continuation of an open and non-discriminatory Internet where all providers and users of information have equitable access to the diverse content and innovations of the Internet. This is very important for libraries because we are providers, creators and users of digital information. Without net neutrality, telecom companies could charge a higher premium to be part of the "fast lane," leaving those who could not afford the higher premium or simply would not want to pay for it in the "slow lane." We are very concerned that libraries might not be able to afford the extra cost, thus limiting the availability of online resources to our patrons. AALL is a member of the [Save the Internet Coalition](#), which bands individuals, non-profit organizations, businesses and bloggers together to support net neutrality.

AALL supports two recently introduced bills because we want to make sure that Congress protects the principle of an open and free Internet. In January, [Sen. Byron Dorgan](#) (D-ND) introduced the *Internet Freedom Preservation Act* ([S.215](#)) which amends the Communications Act of 1934 to ensure net neutrality. And on February 12, [Rep. Edward Markey](#) (D-7-MA) introduced a House version of the bill ([H.R. 5353](#)). Both bills affirm this principle in law and would prevent network operators from discriminating against certain types of Internet traffic.

### **National Archives Proposed Rule to Restore Research Hours**

On February 1, the [National Archives and Records Administration](#) (NARA) published an [interim final rule in the Federal Register](#) to restore the weekly evening and Saturday hours for the archival research rooms at the [National Archives Building in Washington, DC](#), and the [National Archives at College Park, MD](#). The expanded hours were

constructed especially to help out-of-town researchers. The [FY 2008 NARA Budget](#) in the [Consolidation Appropriations Act of 2007](#) signed by President Bush on December 26, 2007, included \$1.3 million to restore evening and Saturday hours in the research rooms. AALL is pleased with this appropriation and supports NARA's expanded research ours.

### **State Secrets Protection Act ([S. 2533](#))**

Legislation introduced in January by [Senator Edward M. Kennedy](#) (D-MA), the *State Secrets Protection Act* ([S. 2533](#)) would amend federal law by providing for judicial review of evidence that the government argues is exempt under the state secrets privilege. The executive branch invokes the state secrets privilege when it believes that disclosure of certain evidence in court may damage national security and therefore should not be released in litigation. Two separate hearings in the [House](#) and [Senate](#) Judiciary Committees addressed the state secrets privilege. The House hearing included [testimony from Judith Loether](#), the daughter of a victim in [U.S. v. Reynolds](#), the 1953 case in which the U.S. Supreme Court first recognized the privilege. Recently, the government has invoked the state secrets privilege in [separate cases](#) brought by the American Civil Liberties Union (ACLU), Electronic Frontier Foundation and the Center for Constitutional Rights on the National Security Agency's warrantless surveillance program.

### **Surveillance Law Expires, Congress Fails to Act**

The [Protect America Act of 2007](#), which granted the government authority to wiretap without a court approval, expired on February 16 without Congressional action. The House and Senate were unable to reconcile their bills, which differ on granting immunity to telecommunications companies engaged in warrantless wiretapping. Congress will have to reconcile the Senate bill, the *FISA Amendments Act* ([S. 2248](#)), which includes immunity, and the House bill, the *RESTORE Act* ([H.R. 3773](#)) which does not, when members return from recess on February 25. We have been working with a large coalition that supports the Senate Judiciary Committee's bill to change FISA and wants to ensure that the government obtains individualized warrants when records on Americans are sought.

## **WASHINGTON OFFICE ACTIVITIES**

### **Sign up for Sunshine Week Activities!**

[Sunshine Week](#) is quickly approaching, and many organizations are planning exciting events! There is still time to register to be a host site for the 3<sup>rd</sup> annual Sunshine Week dialogue on open government and secrecy, which AALL is co-sponsoring with OpenTheGovernment.org. [This year's event](#) will be held March 19<sup>th</sup> from 1-2:30 EDT at the National Press Club. The program will focus on the politics of secrecy and executive

privilege, and will include a demonstration of how citizens and groups are using information and technology to make their government more open and responsive. This year the webcast will be free, but we are still looking for host sites to show the webcast and organize local programs in their communities. A satellite download will be available for \$250. As in past years, AALL chapters are encouraged to show the national program and organize programs on local sunshine issues.

We are pleased to report that the following chapters and law libraries are hosting events: the Lake County Law Library (OH); the Lyon County Law Library (KS); the Westminster Law Library at Sturm College of Law, University of Denver; the Law Librarians of Puget Sound (LLOPS) with the Washington State Library; and the Northern California Association of Law Libraries (NOCALL) with the San Francisco Bay Region Chapter of the Special Libraries Association. It's not too late to register your library as a host site. Find out more information at [OpenTheGovernment.org](http://OpenTheGovernment.org).

Other events during Sunshine Week include the First Amendment Center's [National FOI Day](#) conference at the new Newseum in Washington, D.C on March 14; the first annual [Freedom of Information Day Celebration](#) hosted by American University's Washington College of Law's Collaboration on Government Secrecy on March 17<sup>th</sup>; and a [discussion with Tom Curley](#), Associated Press President and CEO, on freedom of information and other open government issues during at the National Press Club on March 18.

## **OUTSIDE THE BELTWAY: CHAPTER NEWS**

If you have news on policy or legislative issues in your AALL Chapter, please [let us know](#). News might address legislation you are tracking, events your chapter is hosting, or anything you think might be of interest to others. We'd love to hear from you!

### **Maryland Legislation would Cut Funding to Circuit Court Libraries**

On Monday, February 4, Janet Camillo, President of the [Law Library Association of Maryland](#) (LLAM), alerted us to new legislation introduced into the [Maryland Legislature](#) to cut funding to circuit court libraries. Currently, Maryland's circuit court law libraries receive a portion of their revenues from the fines defined in Maryland Annotated Code, Courts and Judicial Procedures Section 7-507. The legislation ([Senate Bill 86](#), [House Bill 247](#)) would disrupt this revenue stream. AALL President Ann T. Fessenden wrote to [Joseph F. Vallario, Jr.](#), Chairman of the House Judiciary Committee, and [Brian E. Frosh](#), Chair of the Senate Judicial Proceedings Committee, to oppose this legislation. LLAM also wrote a letter to the Chairmen expressing concern. On February 6, a hearing was held on the legislation. Marion Francis, President of the [Maryland Library Association](#) (MLA), testified in support of the circuit court libraries.

## **Latest California Bills No Longer Available in Microfiche**

[BMI Imaging Systems](#), the producer of the archival microfiche set of the California State Assembly and Senate bills, is no longer producing them because they can no longer justify printing costs. This means that there is no tangible archival source for this material past the 2003-2004 set. The bills are available [online](#) from the State from 1993, but this is not a guaranteed, permanent source. The alternative is for libraries to maintain the collection of the print slips that are distributed throughout the year, but many libraries do not have the space for this.

*-Submitted by Janet Fischer*

## **News from Law Librarians' Society of Washington, D.C. (LLSDC)**

LLSDC has transitioned its [website](#) to a new server and nearly all parts of its highly linked to [Legislative Source Book](#) have been updated. The Legislative Source Book includes a [Current Status Table on Selected Legislation](#), [Legislative Histories of Selected U.S. Laws](#), the web sites and telephone numbers for [State Legislatures](#), [State Laws and State Regulations](#), and more. Also from LLSDC, [registration](#) for the LLSDC/SEAALL 2008 Joint Conference is now open. The conference will explore IP for the IP (Intellectual Property for the Information Professional) through a variety of programs and speakers. The keynote speaker this year will be Helen Thomas.

## **FREE TIME WELL SPENT: Further Reading for the Information Policy Junkie**

### **GPO Partners with Libraries to Offer "Ask a Librarian" Service**

The [Government Printing Office](#) (GPO) recently [announced](#) that is partnering with the [University of Illinois at Chicago](#) and twenty Federal Depository Libraries around the country to provide the web-based "[Government Information Online: Ask a Librarian](#)" service to the public. Government information librarians are available to chat with or email members of the public about local, state, regional, national international government information questions.

### **Agencies Experiment with Web 2.0 Technologies**

[Government Computer News](#) interviewed Environmental Protection Agency (EPA) Chief Information Officer Molly O'Neill on Web 2.0 technologies earlier this month. The EPA has been experimenting with Web 2.0 technologies such as mashups and wikis. The EPA recently set up a successful Wiki for the 2007 National Environmental Information Symposium, the [Puget Sound Information Challenge](#). The wiki was used to challenge the National Environmental Information Symposium participants to identify and share the

best information resources, tools, ideas, and contacts in their arsenal to inform the protection of the Puget Sound. Daniel Cornwall offers [comments](#) on what O'Neill's insights mean for libraries.

Other agencies, like the [Office of Management and Budget](#) (OMB) and the [Central Intelligence Agency](#) (CIA), have also experimented with internal Wikis to collaborate on projects, compile information, and network with each other.

### **Librarian is one of Best Careers of 2008, according to Magazine**

[Librarian](#) is considered one of the [31 best careers](#) of 2008, according to U.S. News & World Report. The magazine says, "Forget about that image of librarian as a mousy bookworm. Librarians these days must be high-tech information sleuths, helping researchers plumb the oceans of information available in books and digital records." Special Librarians are listed under "Smart Specialty."

### **An Eye on Law Blawgs**

Interested in law blogs (blawgs)? USLaw.com tracks over 1,000 law blogs and organizes them in a [directory](#) by topic. You may nominate a blog for inclusion or suggest a new description for an existing blog [here](#). The [Law Librarian Blog](#) is also a great resource for news and links to interesting topics affecting the law librarian community, and includes a [recent post](#) on "blawgs as scholarship."

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