Privacy, Teach Act & CIPA

Unit 4 Written Assignment

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This assignment requires we read and describe three relevant topics from a list of eight provided by Dr. Bielefield. The topics I have chosen are Privacy, the TEACH Act and CIPA. I have read and described each of these topics, concluding each section with reasons why they are of particular interest to me.

Privacy

The American Library Association's Task Force on Privacy and Confidentiality in the Electronic Environment

In 1999 the Library and Information Technology Association was asked by the American Library Association Council to examine the impact of new technologies on patron privacy and the confidentiality of electronic records.

Concluding their investigation, they produced a report in July, 2000, identifying areas of technology having an impact on patron privacy and confidentiality. A summary of their findings are listed below, taken from the Final Report presented on July 7, 2000.

Law & Legislation

In most states, the law protects the confidentiality of library records including circulation and registration records containing personal names. However, we cannot assume that all states have laws written to protect the privacy of patrons using online resources.

Library Systems

Libraries have to expand their patron privacy concerns now that computer systems have become a part of the library landscape. User records are more than a list of cardholders and circulation records, it includes electronic communication methods such as email for reference services and providing access to computer, web and printing resources.

Library systems must authenticate users, but also keep user information confidential. When patrons use online web sites or databases controlled by the library, the library must determine the appropriate use of the log files capturing user activity. It is important to measure the usage of expensive databases to determine their value to the library, but it must be done without breaching patron confidentiality.

Internet Access in the Library

Internet access from library computers by patrons is risky, there are threats to patrons privacy in numerous ways.

- Users give out personal information online
- Remote sites track user data
- Users may reveal personal info in order to subscribe to services or purchase items online
- Logs or caches of user activity, in online format or as backups

- Subsequent users can see traces of previous patrons use
- Screen view privacy, patrons can access personal, private information but must be aware that others can see their computer screen.

Libraries need to take an active role of informing their patrons of these risks.

Library Support for Patron Privacy

Historically libraries have supported patron privacy, however evidence shows that the user community is not aware of this position. It is more important than ever, as libraries offer extensive access to quality internet resources through the libraries website, to direct users to the libraries policy on privacy from its web pages.

Access to Remote Resources Provided by Library

It is important libraries take the necessary steps to insure confidentiality with vendors of remote information resources. It is not acceptable for vendors to collect marketing or usage data on library patrons. It becomes even more difficult for libraries to insure privacy when these Remote Resources allow patrons to personalize the use of their information. A good example of this is when a patron requests copies of information from a Remote Resource and requests they send it to their personal email address.

Library Employee Privacy

Libraries must be aware of employee privacy as well as their patron's. Using technology to monitor employee activities for quality control may be an invasion of employee privacy, if the employee is not made aware of this policy.

Conclusions

Protecting patron privacy should be supported by ALA Policy. "Access to Electronic Information, Services, and Networks: An interpretation of the library bill of rights" contains strong statements on the end goals of confidential use of library information resources. Much of the focus is on circulation data and it is suggested the ALA consider expanding this statement to include a wider range of data.

Libraries have some influence over the technical products and services that are marketed towards libraries. License agreements and contracts need to be carefully written to insure patron privacy is protected by the products we buy.

Libraries should take a proactive role informing their patrons of their privacy commitment, using online as well as traditional communication channels.

Libraries have an important role in educating the public about online privacy issues. This can be done through public education and library policies. ALA should support this by providing best practices models and materials for libraries to use.

Librarians need to take an active role individually or through library organizations, influencing public policy on privacy. Staying abreast of state laws on privacy, insuring they are keeping up with the trends. Librarians can advocate the importance of privacy through standards bodies and ad hoc groups that allow public participation and comment.

Recommendations
The task force study conclusion recommends three courses of action:

1. ALA revise its policy statements related to Confidentiality of Library Records (rev. 1986) and Concerning Confidentiality of Personally Identifiable Information about Library Users (1991) in order to specifically and appropriately incorporate internet privacy.
2. That ALA develop model privacy policies, instructional materials and privacy "best practices" documents for libraries to use.
3. That ALA urge that all libraries adopt a privacy statement on web pages and post privacy policies in the library which cover the issues of privacy in internet use as accessed through the library's services.

This topic is of particular interest to me because personally I recognize the complexity of managing patron's privacy in an electronic world. As I work with patrons on our public computers I often wonder how much they understand about online privacy. Our library uses tools on our public computers to authenticate users, they must use an active library card with minimal fines. Once logged in they are dropped onto a screen with specific tools and resources they can access. They do have access to the internet, office applications, access to our online databases and a few other options. We don't filter what they do on the internet. At the end of the day we run a tool that cleans up the systems, removing any files from the disk and cleaning up internet residual, cookies, history, etc. Each day the computer systems come up clean.

It would be nice to have access to ALA information to help guide us with the definition of our privacy policies and examples of materials we could use to educate our users.

I do think many patrons have the attitude that "nothing will happen to me" on the internet if I use some of my personal information online. Many have a tough time differentiating between whose responsibility it is to insure their privacy. Most of the time because the public is not educated enough to understand what responsibility they own.

I will definitely take a more active role educating patrons and providing them with the re-assurance that public libraries have always and still will protect their privacy.

TEACH Act

Technology, Education and Copyright Harmonization Act of 2001

On October 3rd, 2002, Congress enacted the Technology, Education and Copyright Harmonization Act, also referred to as the TEACH Act. This law is a revision to Section 110(2) of the US Copyright Act of 1976, allowing the use of existing copyright-protected material for distance education purposes.

With the advent of the Internet and World Wide Web, interest in and the ability to conduct distance education programs has been evolving. Copyright law, however, was not keeping up with the technological advancements in education and it became apparent that material used in educational programs in the classroom setting could not be used in a distance education classroom. When the US Copyright Act was signed into law in 1976 the internet did not exist and remote classrooms referred to use of closed-circuit television in similar locations.

The TEACH Act provides the following benefits for educators:

- The law allows for an expanded range of works, not the broad range of limitations from before.
- There are no restrictions on the locations allowed to receive the transmission of data.
- The transmitted data can be copied and retained on a server permitting students access for limited periods of time.
- Analog works can be digitized for transmission purposes as long as the work is not already in digital format.

These benefits require educators to follow strict new requirements defined within the law. Responsibility to comply with these requirements fall on the Institution's policy makers, Information Technology Departments and the Instructors.

Requirements of the Institutional Policy Makers

- Must be a government body or an accredited nonprofit educational institution
- Copyright policy must be defined for the institution and standards set for educators and others involved in the use of copyrighted data for distance education
- The institution must provide copyright information to students, faculty and others involved with distance education programs.
- Students must be informed that the materials used in their courses are subject to copyright laws
- Copyrighted information must only be transmitted to enrolled students

Requirements of Information Technology Departments

- Transmission of data must be limited to enrolled students, utilizing dedicated servers and other technological advancements.
- Limit physical access to the information in direct alignment with course schedules and insure students don't permanently retain copies of the information.
- Institutions should review their technological systems put in place to restrict or limit access to copyrighted information to insure they do not interfere with digital rights management code or other measures used by copyright owners to protect their works.
- Institutions are allowed to keep copies of their digital transmissions as long as no additional copies are made.

Requirements of Instructors

- When determining course content, works allowed have been expanded to include:
  - Performances of nondramatic literary works
  - Performances of nondramatic musical works
  - Performance of any other work, including dramatic works and audiovisual works, but only in reasonable and limited portions
  - Displays of work that would be similar to that which is used in a live classroom session.
- There are several categories of works that are excluded:
  - Works that are explicitly marketed as commercially available education materials
  - Works that the institution knew or had reason to believe that they were not lawfully created or acquired.
- The law requires the instructor to participate in the planning and conduct of the distance education program, including direct participation in the class sessions.
- Information used in the distance education classroom must be in the context of "mediated instructional activities" integral to the class experience and controlled by the instructor.
- "Mediated instructional activities" do not include the use of textbooks and other materials typically purchased by students, preventing instructors from scanning and uploading chapters of textbooks instead of students purchasing the books.
- Converting analog materials to digital formats is prohibited except for the following two circumstances:
  - limit the amount to be converted to portions defined in the revised Section 110(2)
  - instructors must check to see if digital versions of the work are available from alternative sources and determine if protection measures prohibit its use.

I chose this topic because of my participation in distance education and my interest in learning about the evolution and quality of such programs. As I read all the information on the TEACH Act I was amazed by the complexity of the Copyright laws and the importance of these changes to strengthen and guarantee high quality distance education programs. When reading the testimony of Gerald A. Heeger, President of the University of Maryland University College, he mentions the importance of instructors being able to conduct remote classrooms with the same educational activities used in the physical classroom.   If this is not permitted, distance education programs will be threatened with second-class status. For me, attending an ALA accredited school with an established distance education program was very important. I did not want to sacrifice a quality education due to limited course content resulting from strict copyright laws. This topic also gave me a whole new appreciation of how involved it is to develop and instruct distance education courses.

CIPA

Supreme Court Upholds CIPA; Library Internet Policies under Review

In 2000, CIPA was signed into law but never enforced, requiring public libraries and schools that receive federal funds for internet connectivity to filter every online workstation, even staff-only machines. The funds for purchasing blocking software are not included, putting the financial burden on the libraries. If libraries did not receive e-rate monies then they were not legally obligated to comply. The American Library Association challenged this law's constitutionality in public library settings at the lower courts and won in 2002. However in June of 2003, the Supreme Court ruled that CIPA does not violate the First Amendment because public libraries do not offer Internet access "to create a public forum for Web publishers [but] to facilitate research, learning, and recreational pursuits by furnishing materials of requisite and appropriate quality." When the Supreme Court was asked about blocking constitutionally protected speech, they said that filters can be turned off for adults allowing them access. A slight inconvenience for adults outweighs protecting our children and young adults from inappropriate material.

The impact on public libraries and their choice to comply will be a difficult decision to make. Some libraries like the San Francisco Public Library would forgo e-rate funds rather than offer patrons "second rate" information. The Chicago Public Library, known for its filter free access, could not afford to lose their federal subsidy of $500,000, so they will have to purchase filtering software at an estimated cost of $200,000.

Public and School libraries alike need to take a good hard look at this topic and make a decision based on their beliefs, the constitutional rights of their patrons and the financial status of their libraries. I believe this debate will continue for years to come.

Having two children of my own and also being responsible for the public libraries personal computers while at the reference desk, understanding the Children's Internet Protection Act was important to me. Fundamentally I want to insure the safety of our children from pedophiles, stalkers and the like as much as possible. The internet has proven to be a haven for these types of personalities, preying on children unknowingly. In contrast I also believe that as librarians we want to provide access to the vast world of information available via the World Wide Web, enabling us to provide far more resources than the physical collection in our libraries.

I can see implementing filtering for public computers used by children through the age of 10 years old, but when it comes to young adults, (11-17years old) the decision is more difficult. We have many high school students who use our public computers for homework assignments, but likewise we have just as many who use our computers for gaming purposes and social applications such as facebook, myspace and personal email accounts. If we were to put filters on our systems, preventing use of the social applications, there would be far fewer young adults in the library. Perhaps if we did we would get a different cross section of YA's with more emphasis on class work and research. But then again, in a public library we want to be viewed as a community resource that meets the needs of all its towns people (tax payers).

Personally I haven't made my mind up on how I stand on this issue, but it has opened my eyes to the issues and made me more informed as I work with the Director and staff to provide a resource rich environment that is "safe" for our children.