



## STAFF REPORT INFORMATION ONLY

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### Intellectual Freedom Challenges – 2017 Annual Report

<b>Date:</b>	May 28, 2018
<b>To:</b>	Toronto Public Library Board
<b>From:</b>	City Librarian

#### **SUMMARY**

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The purpose of this report is to provide an overview of the processes for dealing with challenges to intellectual freedom and to provide a summary of the five complaints received in 2017 – three regarding library materials, one use of library space and one technology.

This report is now being broadened to include challenges relating to library programming, technology and library space in order to provide a more comprehensive view of challenges relating to intellectual freedom.

#### **FINANCIAL IMPACT**

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There is no financial impact arising from the information in this report.

The Director, Finance and Treasurer has reviewed this Financial Impact Statement and is in agreement with it.

#### **ALIGNMENT WITH STRATEGIC PLAN**

The Challenges to Intellectual Freedom for 2017 report supports the Strategic Plan goals of:

- building a diverse collection in a variety of formats in response to changing community needs;
- creating online and in-branch environments that connect neighbourhoods and communities, offering opportunities for partnerships, civic engagement and resident participation;
- meeting or exceeding public expectations and demand for technology to support school, work and daily life.

## ISSUE BACKGROUND

The Library believes that a vital society encourages members of its community to actively participate in an open exchange of ideas and opinions, and it offers materials, technology, programs and services to support this goal. The Library seeks to offer a welcoming, inclusive environment while upholding the principles of freedom of speech and expression.

At present, intellectual freedom challenges are dealt with in the context of the applicable policy governing that area of service. To promote a more comprehensive approach, the Library proposes to develop an overarching intellectual freedom framework and to examine relevant administrative policies and procedures that will support this framework. The current process for handling requests for reconsideration of library materials is highly developed and well understood by staff, and will provide a model for development of processes relating to other types of intellectual freedom challenges.

## COMMENTS

### **Challenges to the Use of Collections**

The Library provides a process for members of the public to identify concerns about books and other material in the Library's collection. These customer complaints are dealt with in the context of the Materials Selection Policy and the principles of intellectual freedom, both of which were approved by the Board at its meeting on June 26, 2000. Subsequently, the Board approved a revision of the policy in December 2007 and, in June 2012, endorsed two Ontario Library Association statements on intellectual rights, which are now appended to the policy. The relevant section of the policy is restated here.

*The library believes that a vital society encourages members of its community to actively participate in an open exchange of ideas and opinions. Material selectors consequently strive to provide the widest possible range of resources within Toronto Public Library collections.*

*The content or manner of expressing ideas in material that is purposely selected to fill the needs of some library users, may, on occasion, be considered to be offensive by other library users. The library recognizes the right of any individual or group to reject library material for personal use, but does not accord to any individual or group the right to restrict the freedom of others to make use of that same material.*

Library users who object to materials located in a library collection are asked to complete a written request for reconsideration of the materials. Request forms are available for this purpose at local library branches.

The procedures for the reconsideration of library materials are intended to ensure that the concerns of the customer are dealt with in a timely manner and with sensitivity. Typically, complaints are received at the branch level. Staff then have the opportunity to discuss the customer's concerns with them and to provide them with a copy of the

Materials Selection Policy. This discussion often satisfies the customer and no further action is required. Customers wishing to pursue their complaint fill out a form detailing their concerns, which is sent to the Collection Development Manager, who forwards it to the Materials Review Committee. A letter of acknowledgement is sent to the customer explaining the process.

The Materials Review Committee is chaired by the Manager, Collection Development and is drawn from a group of experienced public service librarians based on the subject of the complaint. These librarians have a mixture of expertise in adult, children's and teen materials in a variety of formats and the Manager may also call in other experts, for example, language specialists, as needed. The committee researches the disputed title by considering reviews, the author's reputation, coverage of the subject in the collection, its popularity, historical importance, etc., all within the context of the Materials Selection Policy. The decision on the disposition of the item is communicated in writing by the Director, Collections & Membership Services. If the customer wishes to dispute the decision, they may do so to the City Librarian.

Challenges to titles in the collection received by the Materials Review Committee in 2017 and the actions taken by the Library are listed in Attachment 1.

There were complaints about three titles. One was a children's book in Tagalog with accompanying English translation and two were adult books in English. The children's book was withdrawn from the collection; one adult book was moved to the Toronto Reference Library for research purposes, and all other copies withdrawn; one adult book was retained.

### **Challenges to the Use of Community Space**

Challenges are dealt with in the context of the Community and Event Space Rental Policy, which was revised following the incident described below in response to a request from the Mayor. The review of the policy included seeking the advice of external legal counsel, a review of the policy objectives, consideration of feedback from the public and stakeholders and an examination of relevant legislation and pertinent City policies. The resulting revisions provide a pragmatic and defensible approach to booking decisions and explicitly states the conditions under which the Library will allow or deny room bookings. The policy was approved by the Library Board on December 11, 2017.

The relevant sections of the revised policy are as follows:

*Toronto Public Library meeting rooms, auditoriums, theatres and event spaces are made available to the general public for a fee when not being used for Library purposes. The purpose of this policy is to promote the Library's objectives of providing equitable access to services and maintaining a welcoming and supportive environment free from discrimination and harassment, and to outline the fees, the underlying principles for those fees, the priorities for use and the conditions of use for community and event spaces available for rent from the Library.*

*When making the Library's Community Space Rentals available for use, the Library is committed to ensuring the dignity and safety of the public and staff without disruption to Library services, and to maintaining the security of Library property.*

- a) *The Library reserves the right to deny or cancel a booking when it reasonably believes:*
  - i. *use by any individual or group will be for a purpose that is likely to promote, or would have the effect of promoting discrimination, contempt or hatred for any group or person on the basis of race, ethnic origin, place of origin, citizenship, colour, ancestry, language, creed (religion), age, sex, gender identity, gender expression, marital status, family status, sexual orientation, disability, political affiliation, membership in a union or staff association, receipt of public assistance, level of literacy or any other similar factor;*
  - ii. *use by any individual or group will be for a purpose or action that is contrary to the law or any of the Library's policies or Rules of Conduct, including violent, threatening, abusive, harassing, disruptive or intrusive language or conduct;*
- b) *The Library requires potential users of Community Space Rentals to confirm that they will not be conducting any business or activities that are in violation of 4.4(a)(i) of this policy, the Criminal Code of Canada (including hate propaganda laws) or the Ontario Human Rights Code.*

Applicants who are denied permission may have the decision reviewed by the City Librarian whose decision is final.

Procedures were also changed so staff have more information about the purpose of bookings and pertinent language from the policy concerning denial of applications incorporated into contracts that all applicants must sign.

The community space rental challenge concerned a third-party room booking at Richview Branch for a memorial for Barbara Kulaszka, a lawyer known for her work on free speech cases involving far right causes, including white supremacists. A large number of complaints from the public, members of City Council and the Mayor were received. Based on the information available at the time and considering TPL's policies and the legal opinion received, the room booking was maintained. Details can be found in Attachment 2.

## **Challenges to the Use of Technology**

In this case, the challenge was dealt with in the context of the Internet Use Policy, which was approved by the Library Board in 2002. The relevant sections of the policy are below.

*With the exception of filters on designated children's workstations, the Library does not manage the content of the information accessed through the Internet and assumes responsibility only for the information provided on its own home pages. The Library is not responsible for the site content of links or secondary links from its home pages.*

*Toronto Public Library's users are subject to federal, provincial and municipal legislation regulating Internet use, including the provisions of the Criminal Code regarding obscenity, child pornography, sedition and the incitement of hate. The use of the Library's Internet services for illegal purposes is prohibited and may result in prosecution.*

The technology challenge was a complaint to the Library Board Chair and City Librarian concerning the Library's policy of not using filtering software on adult Internet workstations. In response, the Library undertook a review of its policies and practices around Internet use and the current legal framework. Ultimately the Library's Internet Use Policy was unchanged and the request to install filtering software denied. Details are in Attachment 3.

In general, the volume of complaints received relative to the population served is very low, reflecting the Toronto public's appreciation of the breadth of TPL's collection, the importance of public libraries in providing access to public space and computers, and its understanding of the application of intellectual freedom in a library setting.

## **CONTACT**

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## **SIGNATURE**

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Vickery Bowles  
City Librarian

## **ATTACHMENTS**

Attachment 1: Challenges to Intellectual Freedom 2017 – Library Materials  
Challenges to Intellectual Freedom 2017 – Use of Community Space  
Challenges to Intellectual Freedom 2017 – Internet Filtering

## Challenges to Intellectual Freedom 2017 – Library Materials

Date Resolved	Item Description	Summary of Customer Comments	Findings and Action Taken
April 2017	<p><b>Pitong Anghel (Seven Angels)</b></p> <p>Written by Genaro R. Gojo Cruz, Lampara Publishing, 2014</p> <p>Children's Picture Book</p>	<ul style="list-style-type: none"> <li>Promotes a racist stereotype of Muslims.</li> <li>Remove from the collection.</li> </ul>	<ul style="list-style-type: none"> <li>The book tells the story of a young girl and her series of caregivers (“angels”).</li> <li>The author is a well-regarded teacher, poet and writer in the Philippines.</li> <li>The girl is warned that “the man with the beard” might come and take her away. The man illustrated could be assumed to be Muslim based on his appearance. Other males in the books are not depicted this way.</li> <li>This is problematic and children could interpret it to mean that men who look like this are dangerous.</li> <li>The Library does not own other works with illustrations by the same artist.</li> <li><b>Withdrawn from the collection</b></li> </ul>
May 2017	<p><b>What the (Bleep) Just Happened?: The Happy Warrior's Guide to the Great American Comeback</b></p> <p>Written by Monica Crowley, Broadside Books, 2012</p> <p>Adult Book</p>	<ul style="list-style-type: none"> <li>Extensively plagiarized.</li> <li>Remove from the collection.</li> </ul>	<ul style="list-style-type: none"> <li>The book is a critique of Barack Obama and his policies, written by a syndicated radio host and former Fox News contributor.</li> <li>News organizations reported that her book contained over 50 instances of plagiarized text from various sources including Wikipedia, the <i>New York Times</i> and <i>Wall Street Journal</i>.</li> <li>In response to the controversy, the publisher announced that the book would no longer be offered for purchase.</li> <li>The book may be of interest to researchers due to its news value and as an example of plagiarism.</li> <li><b>Withdrawn from the circulating collection and one copy transferred to the Toronto Reference Library for research purposes</b></li> </ul>

Date Resolved	Item Description	Summary of Customer Comments	Findings and Action Taken
August 2017	<p><b>Mein Kampf</b></p> <p>Written by Adolf Hitler, 1925, 1971, Houghton Mifflin</p> <p>Adult Book</p>	<ul style="list-style-type: none"> <li>The work is a manifesto of Nazi ideology and is anti-Semitic.</li> <li>Remove all formats of the work from the collection.</li> </ul>	<ul style="list-style-type: none"> <li><i>Mein Kampf</i> is Adolf Hitler's autobiography and political manifesto, outlining his ideas of racial superiority and his plans for Germany's future under the leadership of the Nazis.</li> <li>It is central to understanding the origins of National Socialism and the World War II era in general, and is a crucial text for those who study the Holocaust, propaganda and totalitarian psychology.</li> <li>It appears on course lists at the university level and is available in public and university libraries across Canada.</li> <li><b>Retained in the adult collection</b></li> </ul>

### Challenges to Intellectual Freedom 2017 – Use of Community Space

Date	Incident	Summary of Public Response	Findings and Action Taken
July 2017	Challenge to a room booking for a memorial service for Barbara Kulaszka, a lawyer known for her work on free speech cases involving far right causes, including white supremacists.	<ul style="list-style-type: none"> <li>• Approximately 1,600 emails, phone calls and social media messages were received from the public, most expressing opposition to the room booking.</li> <li>• Members of Council, including Mayor John Tory, voiced their disapproval. In an official statement, the Mayor asked the Library to review its rental policy in the wake of the event.</li> <li>• General theme of feedback was that by upholding the booking the Library was endorsing the views of the individuals organizing the meeting.</li> </ul>	<ul style="list-style-type: none"> <li>• Legal advice from the City of Toronto suggested TPL did not have the grounds to deny the booking for the memorial service based on the Canadian Charter of Rights and Freedoms, the Library's Rules of Conduct or other policies.</li> <li>• A Senior Manager and other staff attended the memorial service to ensure there were no policy or legal violations and to respond to media requests and questions or concerns from the public. No violations occurred.</li> <li>• A rigorous and thorough review of the Community and Event Space Rental Policy was conducted, including a third-party legal review, a peer review of revisions to the policy and consultations with stakeholders. The Board approved the revised policy at its December 2017 meeting.</li> <li>• <b>Room booking was maintained</b></li> </ul>

### Challenges to Intellectual Freedom 2017 – Internet Filtering

Date	Incident	Summary of Public Comments	Findings and Action Taken
Sept. 2017	Challenge to the Library's <i>Internet Use Policy</i> , which states that filtering software is not installed on all internet workstations, beyond designated children's workstations.	<ul style="list-style-type: none"> <li>• A group expressed concern about library customers viewing pornography on library computers.</li> <li>• Requested that filtering software be installed on all internet workstations.</li> </ul>	<ul style="list-style-type: none"> <li>• TPL reviewed its policies and practices around internet use.</li> <li>• Current legal advice is that filtering all internet workstations would amount to a <i>prima facie</i> infringement of the right of freedom of expression contained in section 2(b) of the Canadian Charter of Rights and Freedoms.</li> <li>• Library users are subject to legislation regulating Internet use, including the provisions of the Criminal Code, such as section 163.1, which relates to child pornography.</li> <li>• If material being viewed on TPL computers or personal devices in the library interferes with the welcoming environment, library staff will investigate and take appropriate actions including asking the person viewing the material to stop the activity.</li> <li>• Given the importance of public libraries as an access point for technology and the internet, TPL's commitment to intellectual freedom, and the limitation of filtering solutions, TPL will maintain its current policy of not filtering adult workstations and continuing to filter workstations designated for children.</li> <li>• <b>Internet Use Policy upheld</b></li> </ul>