



# Memorandum

**TO: RULES AND OPEN GOVERNMENT COMMITTEE**

**FROM:** Jane Light

**SUBJECT: SEE BELOW**

**DATE:** November 7, 2007

Approved

Date

11/9/07

**COUNCIL DISTRICT:** Citywide

**SUBJECT: STAFF RESPONSE TO 10/24/07 RULES AND OPEN GOVERNMENT COMMITTEE REFERRAL RELATING TO INTERNET FILTERING AND COMPUTER USE AT SAN JOSE PUBLIC LIBRARIES**

## RECOMMENDATION

Approve staff's proposed policy review plan and workload assessment, and accept staff responses to questions asked by Rules Committee at the October 24, 2007 meeting.

## OUTCOME

The Library Department will provide a proposed policy review plan and workload estimate associated with an analysis of various options related to filtering Internet access at San Jose Public Library branches and the King Library for consideration by the Rules and Open Government Committee.

## BACKGROUND

Councilmember Pete Constant made two recommendations in an October 18, 2007 memo to the Rules Committee at its meeting of October 24, 2007 (Item G3):

1. Rules direct staff to place an agenda item on the November 6 City Council meeting for discussion and direction regarding Internet use at the San Jose Public Libraries; and,
2. Rules forward to Council a proposed policy requiring filtering technology to be used in specific ways, included in his memo as Attachment G.

The Rules Committee directed the Administration to report back on November 14, 2007 with a policy review plan and workload assessment and to provide information on (1) legal issues, (2) cost and revenue impacts, and (3) implementation steps and any obstacles at branches and the

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King Library if City Council should decide to adopt a policy that requires filtering software be installed on public Internet access computers in the San José Public Library System.

The City of San Jose currently does not filter Internet access at public computers in its library system. The City Council's open access policy for the San Jose Public Library's materials and services was reaffirmed in September, 1997 by the Council to specifically include Internet access.

San José Public Library and San José State University Library align our public service with the American Library Association's Library Bill of Rights, which states that "intellectual freedom is the right of every individual to both seek and receive information from all points of view without restriction. It provides for free access to all expressions of ideas through which any and all sides of a question, cause, or movement may be explored."

The current Internet access and computer use policy for the King Library and the branch libraries states:

*SJLibrary.org [the SJSU and San Jose Public joint website] offers access to information resources through the Internet. While the Library strives to offer sites which provide current and accurate information, the changing nature of this medium means the Library cannot guarantee the accuracy of information gained through the World Wide Web. Users are responsible for determining that the information they access is acceptable, reliable and suitable to their needs.*

The policy also addresses need for the policy, requirements, and guidelines:

*The SJSU King Library and the San José Public Library system provide access to the Internet in accordance with their mission of providing public access to information of all types in a wide range of formats. In doing so, the Library does not monitor and has no control over the information accessed through the Internet and assumes no responsibility for its content.*

*It is a violation of federal law to knowingly receive visual depictions of minors engaged in sexually explicit conduct. Anyone who does so is subject to federal criminal prosecution under the Protection of Children Against Sexual Exploitation Act of 1977(18 USC 2252).*

*Materials obtained or copied on Library computers may be subject to copyright laws, which govern the making of reproductions of copyrighted works. Users must comply with U.S. copyright law and other applicable laws.*

*The Internet is a global electronic network. It enables the Library to greatly expand its information services beyond the traditional collections and resources. However, not all information on the Internet is current, complete or accurate. The Internet may contain material of a controversial or mature nature. The Library neither restricts access to materials found on the Internet nor protects users from materials or information they may find offensive. The Library encourages all users to make appropriate use of the Internet.*

*Parents or legal guardians must assume responsibility for deciding what library resources are appropriate for their own children. It is both the right and the responsibility of parents and legal guardians to guide their own children's usage of library resources in accordance with individual family beliefs. The library has created Web pages for children (Kids Place) and young adults (Teen Web) which provide content and links to other Web sites that parents and legal guardians may find appropriate for their children. For more information on children and the Internet, see My Rules for Internet Safety.*

## ANALYSIS

The purpose of this memorandum is to provide the requested information on: (1) costs and revenue related to adopting filtering technology; and, (2) a timeline, obstacles, and implementation steps should the Council change its policy. This report also offers a recommended policy review and analysis process and workload estimate to provide the Council with more detailed information and alternatives. The information provided in this memo is as complete as available, given the short response time given.

The overview requested by the Rules Committee of legal issues relating to Internet filtering in public libraries will be addressed separately by the City Attorney's Office.

### *1. COSTS AND REVENUE INFORMATION (E-RATE)*

The Rules Committee asked for information about how much revenue from E-rate Internet discounts is not being realized because the City does not comply with the filtering requirements of the Children's Internet Protection Act (CIPA).

As background, E-rate discounts are provided through the federal Telecommunications Act of 1996 to help K-12 public schools and libraries fund costs for four possible categories: (1) voice telecommunications, (2) Internet access, (3) internal connections, and (4) basic maintenance on eligible internal connections.

If San Jose were to be CIPA-compliant, our discount for Internet access would result in a savings of approximately \$30,000-\$35,000 per year. San José received \$85,800 in E-rate discounts in 2006 for the other three categories, which do not require that libraries filter Internet access for eligibility.

The Rules Committee also asked for information about the costs of implementing a policy of filtering Internet access. Cost estimates were developed using filtering software licensing costs currently paid by the Santa Clara County Library and Councilmember Constant's specific proposal, including additional staffing required to be on duty to receive, evaluate and act on requests for unblocking sites.

**Annual licenses and fees for filtering program: Total \$55,282**

Based on \$39.60 per year per computer for branches (751) and King Library (645)

**Estimated hardware costs for additional servers: Total \$12,000**

**Staff training on new policy: Total \$7,000**

**Additional Technical On-duty Staff - 81 hours/week, 7 days per week: Total \$210,000**

Additional technical network staff (referred to as "IT specialist" in the policy proposed) to receive, evaluate, and act on requests to unblock Internet sites, and perform other tasks associated with administering the filter software. These positions would cover the King Library hours of 81 hours/week and 50 plus hours/week at other branch libraries, 7 days/week.

In summary, the estimated total first-year costs for implementing filtering, based on the specific proposal included as Attachment G in Councilmember Constant's October memo to the Rules Committee would be approximately \$284,000 in start-up costs for the first year, with \$265,000 required for ongoing filtering services for out years.

## ***2. OBSTACLES, TIMETABLE, AND IMPLEMENTATION PLAN***

Based on preliminary research, there are a number of ways public libraries choose to apply filter software. Our proposed policy analysis would look at these in more detail. However, in order to respond to the Rules Committee question regarding implementation steps, timeline and obstacles, we have used the policy proposed in Attachment G of Councilmember Constant's October 18 memo to Rules Committee for this preliminary analysis.

An obstacle to implementation of filtering in SJPL branch libraries would be to ensure that no impact be made on access by SJSU faculty, students and staff given that the King Library and branches share one network.

The San Jose State University Faculty Senate Policy (S-03-5) states:

### **3.4 Academic Freedom and Freedom of Information**

Recognizing the need for complete freedom of information in an academic environment, there shall be no censorship of any library resources within the San Jose State University Library.

This policy is supported by the Agreement for Ownership and Operations for the King Library, as approved by City Council in December, 1998, which states:

**5.4.1 Policy.** It is the intent of the University and the City to continue to honor the current policy of both the University and City to provide for unrestricted access to all Library Material within the Library Collections and services within the Joint Library for all Members of the General Public and the University Users.

**5.4.2 Change in Policy.** In the event that City ordinances are passed or rules, policies or regulations are imposed by the City that restrict access for certain groups of users to Library Material within the City Library Collection or restrict use for certain groups of users of City sponsored services or programs, the City hereby agrees that it shall not restrict access to any Library Material within the University Library Collection or restrict use of any University services or programs. It is the intent of the City not to restrict University Users access to Library Collections. In addition, the University shall not be required to enforce, through its employees, any such ordinances, rules, regulations or policies imposed by the City.

This would require customization or modification of filtering programs and possible hardware changes to ensure distinction and separability between branch/King Library non-university access (general public users) and King Library university access (university users). City and University staff would need to work collaboratively to develop technical and functional specifications to address the specific needs of both institutions.

The City Attorney's Office may also be addressing issues of the City's Operating Agreement with San José State University separately.

In order to implement a filtering policy, the following draft timetable of implementation steps would be generally followed.

Activity (draft list only)	Staff Involvement	Est. Time	Est. Cost	Start-up (S) Ongoing (O)
<b>Procurement:</b> <ul style="list-style-type: none"> <li>▪ Preparation of RFP</li> <li>▪ Analysis of responses</li> <li>▪ Selection of vendor</li> <li>▪ Purchase of product (assuming that issues with SJSU are addressed in RFP stage)</li> </ul>	Library Finance/Purchasing Info Technology City Attorney's Office	10-14 weeks from date of Council direction		S
<b>Installation:</b> <ul style="list-style-type: none"> <li>▪ Acquire selected filtering software product</li> <li>▪ Acquire hardware if necessary</li> <li>▪ Configure and test filter program on entire SJPL/SJSU system to ensure accurate operating environment</li> <li>▪ Modify if necessary</li> </ul>	Library IT Library professional staff	3-6 weeks	Hardware: If necessary ~\$12K  Software license: \$ 55K	S
<b>Maintenance:</b> <ul style="list-style-type: none"> <li>▪ Maintain hardware and software</li> <li>▪ Annually license software use</li> <li>▪ Prepare reports as available or directed</li> <li>▪ Process equipment upgrades or replacement as necessary</li> </ul>	Library IT	Ongoing assignment	Annual License: \$ 55K	O
<b>Operational Changes:</b> <ul style="list-style-type: none"> <li>▪ Training of Library Public Service staff</li> <li>▪ Establish Filter Administrator/ additional staff for on-duty customer assistance. (Filter staff on-duty 81 hrs/wk, 7 days/wk = 2.0 FTE Network Tech)</li> <li>▪ Revise policies and procedures to reflect filtered Internet access</li> </ul>	Library public service staff  Library IT (filter administrator/IT Specialist on duty)  Library training team	4 weeks initially	Filter Staff: \$210K  Training: \$ 5-7K	O  S

Depending on the outcome of the policy decision, a more detailed cost and implementation analysis can be provided, given that filtering implementation could vary widely depending on a specific Council policy decision.

### POLICY REVIEW WORKPLAN

The Rules Committee also directed staff to bring back a plan for policy review and analysis and workload assessment, which is described below.

#### **Data Gathering and Analysis (November 2007-April 2008)**

##### 1. Identify and Research Options

City staff will research and analyze a number of possible options, including

- by age of cardholder (under age 17);
- filtering Internet access on children's & teen room computers only;
- by age of cardholder, but parent can request permanent unfiltered access for child;

- filtering in children and teen areas and user choice of filtered or unfiltered access on all other computers;
- filtering for all, adult customers can request permanent disabling; or,
- filtering for all, adult customers can ask for single unfiltered session.
- adult customers can request temporary unblocking of a specific site (library staff to review each request and make decision).

This is not a complete list, but it indicates the wide variety of options that could be considered by Council before making a decision to reaffirm or change the current San José Internet access policy. Many of these options are currently being used in different communities where locally-set policies have been made, but some of these options do not meet CIPA criteria for qualifying for Internet E-rate discounts.

Reports and studies on filter technology will be reviewed, including but not limited to those specifically related to Internet filtering in public libraries. Staff will speak with experts to identify current filtering environments and efficacies. A review of existing filter policies and implementation issues and best practices at other major library systems will be undertaken, and other systems will be surveyed regarding actions they've taken to make filter programs effective in addressing customer needs.

2. Review Filtering Policies and Implementation Elsewhere

A key question for San Jose is how did library systems that currently filter Internet usage, determine vendor selection and implementation of the filter to address adult and youth customer needs. It is anticipated that a number of large library systems be researched in depth to understand potential policy and implementation issues. In addition, a March 2007 local study of ten libraries (summarized below) will be updated during this review.

Of the ten library systems surveyed, four local jurisdictions currently filter children's room computers, and one jurisdiction requires parental permission for children to use the Internet. Six libraries, including San José, have unfiltered children's room Internet computer access.

Entity	Children's Area Access Filtered?		Adult/General Area Access Filtered?		If WiFi, is it filtered?	Use of Privacy Screens	
	computer	none	computer	none		permanent	available
Alameda County	X		X				X
Oakland		X		X			X
San Francisco		X		X			X
Mountain View	X			X	No	X	
Palo Alto		X		X	No		X
Sacramento	X		X		Yes		X
San Mateo		X		X			
Santa Clara City		X		X			
Santa Clara County	X		X		Yes	X	
Sunnyvale	Parental Perm. required	X		X		X	X

### 3. Test Filter Programs

In order to better understand how filter programs perform in a library setting, the library will work with vendors to independently test a small sampling of searches and websites. Results will be compared to prior published studies. This is not a scientific study, but rather an opportunity for the City to become familiar with the parameters and ramifications of various filtering programs in order to understand how the identified options would affect our library users of all ages, both through overblocking and underblocking. Working with major companies marketing filter programs to the corporate, library and educational markets, this testing would validate or challenge claims that filters are now more advanced and offer greater accuracy in their filtering of sites which are prurient only.

### 4. Evaluation Implementation Issues/Options given King Library Operating Agreement with SJSU

The City Attorney's Office will address the Operating Agreement and the complications of City filtering in a jointly-owned and operated facility in depth; however, it is important to reiterate that the San Jose State University Faculty Senate Policy (S-03-5) states there shall be no censorship of any library resources within the San Jose State University Library. Any consideration of appropriate filters would have to accommodate these SJSU requirements. Research and discussion with SJSU staff and filter vendors may help to identify implementation options which uphold the university policy while enabling the City to more strictly control Internet access and computer use.

### **Discussion and Community Outreach (Present-February 2008)**

Various policy options and analyses would be presented to the Library Commission and the Youth Commission, and they would receive input from these public meetings to gauge public sentiment and special constituency concerns. It is recommended that staff meet with SJSU management, SJSU's Library Board, and/or Academic Senate to share information and options due to King Library's unique situation. Staff will coordinate preparation of reports and presentation materials.

### **Final Report to Council (March or April 2008)**

Staff will bring forward a final report to the Neighborhood Services and Education Committee with analysis and options and, possibly, recommendations. It is anticipated that the final staff report will be submitted for City Council consideration in March or April 2008.

### **ADDITIONAL STAFFING AND COSTS**

The issue of filtering at the Library is not currently in the Department's work plan. Additional staff may be temporarily assigned to this project, and current assignments may be slightly delayed while research takes place. The Library Department will be the lead and will coordinate meetings, materials, and work with vendors and other public library systems. It is not anticipated

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that the work associated with these activities will negatively impact other work plan items. Staff estimates that the costs associated with this action will require less than \$15,000 of temporary staff support. Approximately 190 staff hours in total, including temporary support, will be necessary to complete this additional research assignment.

### **EVALUATION AND FOLLOW-UP**

This report is submitted for the Rules Committee's consideration. It is anticipated that the tasks identified in this report will be completed for final Council action in March or April 2008.

### **PUBLIC OUTREACH/INTEREST**

This Memorandum defines programmatic issues appropriate for further study and will be posted to the Rules and Open Government Committee Agenda via the City's website. Appropriate outreach to other Departments, City employees, and the public will be an integral part of comment and input to any policy change recommended by City Council for implementation. At this time, there is no relevant public outreach Criterion.

**Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. (Required: Website Posting)

**Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. (Required: E-mail and Website Posting)

**Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. (Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)

### **COORDINATION**

This memorandum has been coordinated with the City Manager's Office and the City Attorney's Office.

  
JANE LIGHT  
Director, Library Department

For questions please contact Jane Light, Director, at (408) 808-2150.