



Councilmember Constant's Update on Library Filtering

The viewing of pornography in public libraries is a problem.

Over a year ago, an ABC 7 I-Team report exposed San José's failure to protect children from pornography and those who would openly view pornographic material in their presence. The investigation revealed that there have been a number of individuals arrested for viewing child pornography in libraries, and still others have been arrested for performing lewd acts such as masturbating in public while viewing pornographic material. Please take the time to see the reports at http://abclocal.go.com/kgo/story?section=i_team&id=4808374 and http://abclocal.go.com/kgo/story?section=i_team&id=4815686.

According to recent police reports these were not isolated incidents, yet nothing has been done to make libraries safer for kids to be kids. Our libraries offer countless programs designed to bring children into the library to experience the joy of reading and exploration. Parents have been lulled into a false sense of security, often allowing their children to roam and explore on their own. The time to take action is now. San José's children should be free to discover the world in libraries without having to sacrifice their innocence.

While I respect Jack's views and observations, I must counter by letting you know that I have personally observed this behavior occurring in the MLK library. And having talked to library staff and former security personnel, they confirmed that this is regular behavior.

In simplest terms, we need to ask ourselves if the City of San José should be paying for people to look pornography in our libraries. It is no different than the decision the city has made to not subscribe to pornographic magazines or to purchase obscene material for the book stacks.

Various groups have opposed this idea for many different reasons; let me try to address several of those reasons here.

Budget - Some have wondered why I wouldn't be spending my time on the city's budget deficit rather than this issue. It's important to know that the failure to address this issue does negatively impact our budget. The federal Children's Internet Protection Act (CIPA) prohibits public libraries that choose not to filter from receiving federal E-Rate funds. This decision to forego federal funding was made outside of the council chambers by city staff without regard to the budget implications.

Perhaps this federal funding in our libraries can free up general funds to help fix our crumbling infrastructure, fill up the potholes, lessen budget woes, and get our swimming pools open this summer.

Many people don't realize that with every library we open the city relies on neighbors to embark on fundraising efforts to fill the library with books and computers; things that the City of San José can fund with federal dollars if we are in compliance with CIPA.

First Amendment - Some have claimed that the installation of internet filters will violate the First Amendment of the U. S. Constitution. The U. S. Supreme Court has already weighed in on this issue (see UNITED STATES et al. v. AMERICAN LIBRARY ASSOCIATION, INC., et al., APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA) and clearly ruled that neither the installation of internet filters nor the CIPA violate the constitution.

Nothing in the First Amendment indicates that any government agency has the obligation to fund one's expression of speech. Let me illustrate with an example that many may be familiar with. The First Amendment allows any individual the right to express themselves by placing a bumper sticker on their car, no matter how offensive it may be. But if you want to have a license plate personalized by the DMV, the State of California will not let you use any saying that is offensive or merely objectionable. Two expressions of speech on the same car, by the same individual; the difference being one is government sponsored expression and the other is individual expression.

Also note that we are not attempting to break any new ground here – nearly 50% of all public libraries nationwide are already filtered.

Over Filtering - Some have claimed that the installation of internet filters would keep people from accessing information. Many examples have been given; including a list of over twenty sites that supposedly are blocked by filters. I personally tried to view these sites on a computer with filtering at city hall (yes, all of our other city computers are filtered) and I was able to access every one of them.

Many of these filtering fears stem from experiences with early versions of filters, not giving any credit for the incredible advances in technology. It's no secret to virtually anyone here in Silicon Valley how technology makes huge strides each and every year. While I have challenged many to give me concrete examples from current technologies, none have been presented.

Few people realize that their internet searches are filtered every time they use Google to search for images and photographs. If you're skeptical of this, try it yourself. Go to Google and do a search for any term, then click on the images link to see what images show up as a search result. Then click on the *Advanced Image Search* link to the right of the search box. At the bottom of the page you will see that Google uses Safe Search, and

the default setting is *Use moderate filtering*. Feel free to read Google's explanation of this at <http://www.google.com/help/customize.html>

And finally, I feel it's important to discuss my motivation for bringing this to city council attention. Just prior to taking office a year ago, I was contacted by a District 1 resident who was concerned about the ABC Investigative Report referenced above. After watching the videos, I was very concerned. As a father of 5 young children, it is very troubling to know that this behavior was allowed and occurring in the very same libraries that my wife and I take our children. I spoke with parents in throughout the neighborhoods in my district, and without exception they shared my concerns. I assured them that I would advocate for a change. It was later, during my broader outreach, that I found that other organizations had similar concerns. I listened to their arguments and incorporated some of them into my efforts.