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## 30TH ANNIVERSARY SPECIAL REPORT



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Harold Hershberg  
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bying activities.

**Security on Campus Inc.**

215 Church St  
Conshohocken, PA 19428  
(610) 768-9330

[www.kornnet.org/soc/](http://www.kornnet.org/soc/)

**Purpose:** Dedicated to providing colleges and universities with crime safety information.

**Society of Professional Journalists**

P.O. Box 77  
Greencastle, IN 46135-0077  
Kyle Niederpruem, SPJ FOIA Chairwoman  
(317) 633-9385

[town.hall.org/places/spj/](http://town.hall.org/places/spj/)

For national headquarters, contact Julie Grimes (317) 653-3333  
**Purpose:** The Society's FOI Committee coordinates the Legal Defense Fund, a Project Sunshine network in 50 states, and works closely with First Amendment legal counsel in the nation's capital.

**Southern Newspaper Publishers Association**

P.O. Box 28875  
Atlanta, GA 30358  
Reg Ivory, Executive director  
(404) 256-0444

[www.snpa.org](http://www.snpa.org)

**Special Libraries Association**

1700 18th St NW  
Washington, DC 20009-2508  
David R. Bender, executive director  
(202) 234-4700

[www.sla.org](http://www.sla.org)

**Purpose:** International association of information professionals who work in corporate libraries.

**Student Press Law Center**

1101 Wilson Blvd  
Suite 1910  
Arlington, VA 22209  
Mark Goodman, executive director  
(703) 807-1904

[www.splc.org](http://www.splc.org)

**Purpose:** Protects the First Amendment rights of high school and college student journalists. Provides information clearinghouse for student editors and others interested in preserving press freedom at the student level.

**Robert A. Taft Institute of Government**

420 Lexington Ave

Suite 2601  
New York, NY 10170

Maryann M. Feeney, president  
(212) 682-1530

**Purpose:** Promotes understanding of the basic principles of the American political system. Encourages a more active citizen interest and participation in government at all levels.

**Taxpayers Assets Project (TAP)**

P.O. Box 19367  
Washington, DC 20036  
(202) 387-8030

**Purpose:** Founded by Ralph Nader to monitor the management of government property, including information systems and data. TAP-INFO listserv reports on TAP activities relating to federal information policy.

**The Thomas Jefferson Center for the Protection of Free Expression**

400 Peter Jefferson Place  
Charlottesville, VA 22911-8691  
Robert M. O'Neil, director  
(804) 295-4784

**Purpose:** Protect free expression in all forms and seek active par-

ticipation in First Amendment battles.

**Transactional Records Access Clearinghouse (TRAC)**

488 Newhouse II  
Syracuse University  
Syracuse, NY 13244-2100  
(315) 443-3563

[trac.syr.edu/](http://trac.syr.edu/)

**Purpose:** A non-profit organization which helps reporters find and analyze data about federal enforcement agencies. Provides data sets on tape or diskette (i.e. Justice Department or IRS records); performs research on federal agencies for media and provides training.

**Washington Journalism Center**

1282 National Press Building  
Washington, DC 20045  
Bob Meyers, president of WJC and National Press Foundation  
(202) 662-7352

**Purpose:** Independent institution seeking new methods in journalism education and new approaches to public affairs reporting in order to increase the profession's potential for excellence.

**White House Correspondents' Association**

1067 National Press Building  
Washington, DC 20045  
Kenneth T. Walsh, president  
(202) 737-2934

**The Wilderness Society**

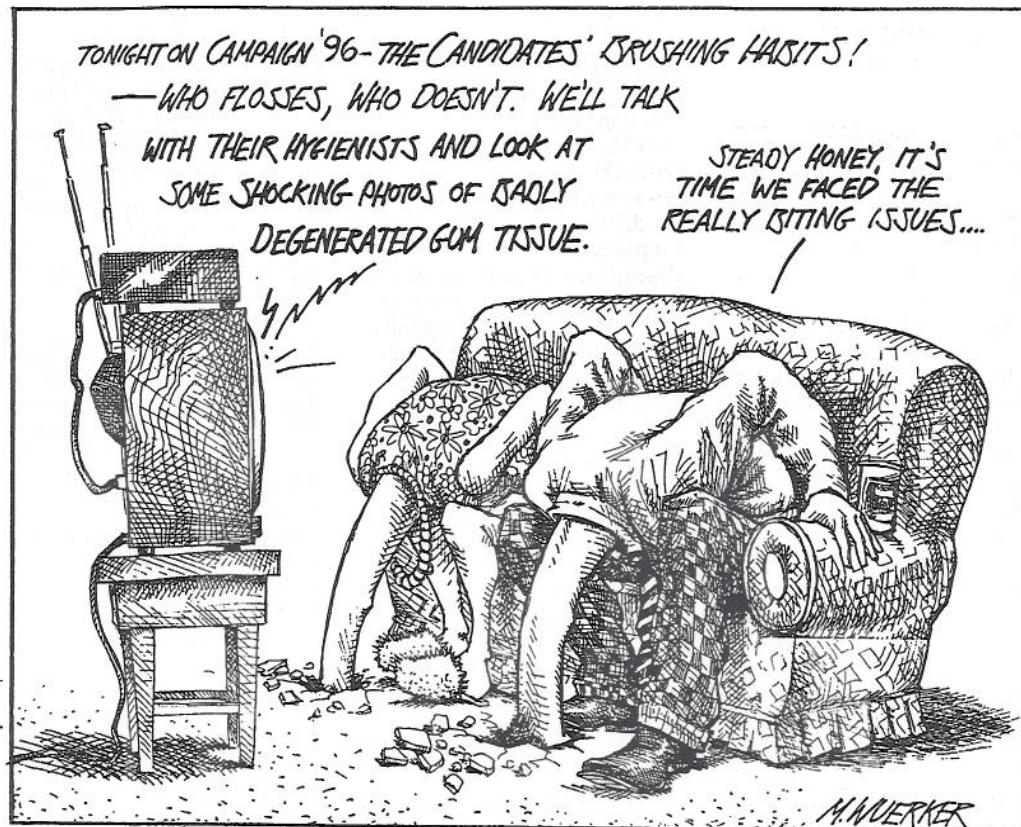
900 17th St NW  
Washington, DC 20006-2596  
Mary Hanley, executive vice president  
(202) 833-2300

**Purpose:** Focuses on federal, legislative and administrative action affecting public lands, including national forests, parks and wildlife refuges. Encourages Congress to designate appropriate public land as wilderness areas.

**Women in Communications**

10605 Judicial Dr.  
Suite A-4  
Fairfax, VA 22030  
Gale Ellsworth, executive vice-president  
(703) 359-9000

**Purpose:** Encourages an active role for women in media and serves their interests.



# Freedom for all

With the Internet, can public records be too public? Where do journalists stand?

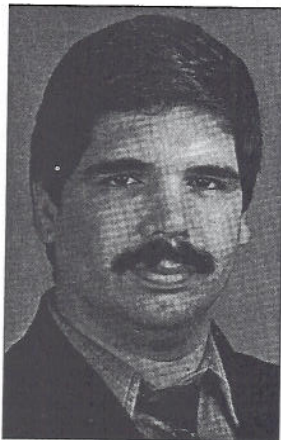
BY CHRISTOPHER J. FEOLA

**A**h, the Freedom of Information Act. The living law that ensures public records are open to the public. A veritable pillar of our democracy.

Who can forget the never-ending battles to open records? *The New York Times* to publish the Pentagon Papers; the seemingly endless effort to get cameras in courtrooms; Aaron Nabil spending \$222 for the Oregon Department of Motor Vehicles database, which he posted on the World Wide Web; the White House records . . . .

Sorry, what was that? Go back one? Who the hell is Aaron Nabil, and how dare he post Oregon's driver records where just *anyone* can look at them?

Quickie quiz: When you think public records, do you mean the public actually should have access to them? Or do you mean that *journalists*



should have access and decide what the public sees?

Can public records be too public?

Would the news media then be an unelected, self-appointed arm of government?

Think of this: After all the *sturm und drang* erupted over the posting of the DMV records, Nabil posted a list of others who had purchased access to the list. Surprise! All the newspapers and television stations had access.

So is it our position that the public has a right to public records only after they've been cleared through us?

Theoretically, everyone always has had access to public records. In practice, though, we're most aware of access by journalists, lawyers, and those of similar ilk—who else spends all day hanging out at Town Hall poring through paper records?

Now computers threaten to turn theory into practice. Oh sure, we could stuff the genie back

# FOIA on the Internet: Where to start

No reviews this month; instead, here are some Freedom of Information Act resources you can access on the Net. This list will help you get started; most of these sites have links to even more FOIA resources.

Legal information institute, Cornell Law School—  
<http://www.law.cornell.edu/apa/apa.table.html> — Comprehensive archive on all sorts of legal issues. Worth bookmarking.

Multimedia magic's Freedom of Information site—  
<http://mmm.simplenet.com/frames/foi/foi.html> —good starter site.

ParaScope's Freedom of Information Act Help Center—  
<http://www.parascope.com/foia.html> —comprehensive site with lots of good advice.

At <http://town.hall.org/places/spj/foi-resources.html>

you'll find a list of Freedom of Information resources compiled by Professor Barbara Croll Fought of the Newhouse School at Syracuse University. Exhaustive list. Worth bookmarking.

Perhaps the best site for first-time FOIA fighters is [gopher://gopher.nyc.pipeline.com:6601/00/publications/reports/foia](http://gopher://gopher.nyc.pipeline.com:6601/00/publications/reports/foia). It contains an on-line version of the "Step-by-Step Guide to Using the Freedom of Information Act" by Allan Robert Adler, which is a publication of the American Civil Liberties Union Foundation. This puppy even has sample letters to send to the stonewaller in question.

At [gopher://wirezp.spies.com/00/Gov/foia.cit](http://gopher://wirezp.spies.com/00/Gov/foia.cit) you'll find "A Citizens Guide on Using FOIA and the Privacy Act of 1974 — A 1991 House Report from the 102nd Congress."

into the bottle, as far as the groundlings are concerned. But here's a flash: Privacy is an illusion in the Age of Information. The big data-mining companies don't need DMV records to obtain your driver's license information. They already have it.

If you've ever filled out a hotel registration slip, loan application or been subjected to a credit evaluation—which happens to you hundreds of times a year without you knowing—or applied for a mortgage . . . you get the picture.

The question is who will have access to the information, not whether it will be available.

Like it or not, the United States increasingly is dividing into a country of information haves and have-nots. This always has been true to a certain extent. But for most of this century, it mattered less. In 1960, high school dropouts earned just less than half the salary of a college graduate. By 1987, high-school dropouts found their college-educated friends earning three times their salaries. The trend is accelerating.

Time was you could graduate from high school, get a job at the local factory pushing a broom, become an apprentice, and retire 40 years later as a master machinist.

No more. Today's master machinists are using Computer-Assisted Design/Computer-Assisted Manufacturing equipment.

What does any of this have to do with freedom of information?

Everything and nothing. It is not an issue of legal access. It is a question of right, and wrong, and where journalism and jour-

nalists will stand.

Will it be with the politicians and bureaucrats, the lawyers and conglomerates? Or will it be with those with those who have no voice because their pocketbook won't stretch far enough to allow them to join fully the Information Age?

There was a time when journalism defined itself with the notion of comforting the afflicted and afflicting the comfortable. Now, much of journalism has become comfortable.

Besides the philosophical question, there is a practical one. Is there a role in the Information Age for journalists if those with the financial resources to be conversant in Information Age technology have the same access as journalists?

So, are we at risk on two flanks? On one side, losing commitment and purpose, on the other, becoming unnecessary.

All is not despair. Before the Freedom of Information Act, journalism existed because journalists were willing to take risks—sometimes even with their lives—to report the truth, a truth unvarnished by the likes of Dick Morris.

Times of peril also are times of opportunity. A few decades ago, anyone with a small printing press could be a publisher. Then came metros and Goss Metroliners and fleets of trucks and capital costs and chain ownership.

Computers have changed that. A determined person with a PC can now do what once took legions of printers or, if print isn't the vehicle of choice, give birth

to a new publication on the Net.

Obviously, you say, new laws are needed for this new age.

Let us say for the sake of the argument that we as a society decide everyone and their brother should not have access to those Oregon drivers records.

So what?

Even if it is illegal in the United States, there is nothing to prevent some Gibsonsque nightmare where illegal records are held in offshore data havens for sale to the highest bidder. What do national boundaries and the laws they contain matter on the Net?

The Net will change society in ways we can't fathom yet. Alexander Graham Bell might have envisioned international phone calls. But it's doubtful he imagined 500 numbers, cell phones, fax machines, and voice mail—any way we can put that genie back?—caller ID, and digital data transmission.

The Net already is changing access to records public and private—whether we like or not. Better that we think it through now than deal with some future *fait accompli*.

Back to the question. Where will journalism and journalists stand? ☐

*Christopher J. Feola is in charge of systems, new media, and computer-assisted reporting at the Waterbury (Connecticut) Republican-American.*

*The First Amendment is the cornerstone that makes America's free press possible. The Society of Professional Journalists and the Sigma Delta Chi Foundation play an instrumental role in ensuring that these freedoms are protected.*



The Society's Freedom of Information Committee coordinates all areas encompassed by our Freedom of Information initiatives, including SPJ's Legal Defense Fund efforts, Project Sunshine, and works closely with our legal counsel in the nation's capital. Reporters, editors, and news directors turn to the Society for advice, assistance, and direction.

SPJ's Legal Defense Fund wages court battles across the country to secure First Amendment rights. The fund also supports state Freedom of Information hotlines, computer bulletin boards, and organizations that resolve First Amendment conflicts before they require costly litigation. When a reporter or news organization is faced with a legal battle, SPJ's Legal Defense Fund is ready to help.

Project Sunshine is the Society's grassroots campaign to improve the ability of journalists and the public to obtain access to government records and proceedings and to brighten the forecast for open government in the years ahead. The program surveys and monitors newsrooms across the country, publishes guidelines and legal advice for sunshine legislation, and provides educational workshops and seminars.

**Freedom of Information Committee**  
Chair, Kyle Niederpruem, environmental writer, *The Indianapolis Star*, 307 N. Pennsylvania St., Indianapolis, IN 46204, (317) 633-9385

**SPJ Project Sunshine**  
Frank Gibson, *The Tennessean*, 3449 Harborwood Circle, Nashville, TN 37214, (615) 726-5907

**Legal Defense Fund**  
Christi Harlan, *Austin American-Statesman*, 2000 Pennsylvania Ave. N.W., Suite 10000, Washington, D.C. 20006-1894, (202) 331-0900

BY KYLE E. NIEDERPRUEM

In the battle for Freedom of Information, there are lots of warriors. Some are reporters at small weekly newspapers who don't have the luxury of a large law firm to back them up.

Others are trade organizations such as the Society, which is ably represented by the law firm of Baker & Hostetler in Washington, D.C.—probably one of the best known and most successful media firms in the country.

Who deserves more credit?

Both and neither.

That's the problem with Freedom of Information skirmishes that sometimes turn into full-blown wars.

There is a constant need for someone to give and get credit.

In the last year during which I have chaired the FOI committee, I have been amazed at how much energy is devoted to such issues as opposed to simply winning these wars.

Whose name goes on top.

Which organization should be listed first.

Mentions and invites that must be made to avoid ill-will and hurt feelings.

Courting of big names.

It is the worst and ugliest part of this job.

As we celebrate the 30-year anniversary of the Freedom of Information Act, I hope we all stop to take a breather from the credit footnotes.

Take a look at the person sitting beside you in the newsroom.

Appreciate how persistent and diligent that journalist is in gathering the news every day.

Marvel at the product you are able to produce with open records and meetings laws fashioned with sweat and passion.

Think of the many journalists who suffer lawsuits, threats, personal violence and even death in the course of doing a job.

And take another mental note of the many obstacles thrown in our path to get a story: government officials who lie, altered documents, inadequate or withheld data, reticent sources.

Just remember, it's all of us—or none of us—in these wars.

Whether your name goes into a Hall of Fame, anyone and everyone in this business deserves credit for keeping the doors to government open.



The best FOI reward for me is when a reporter on deadline says, "Thanks."

And I'm not keeping track of who says it and who doesn't.

Still, it is every journalist's responsibility to be an advocate in any and all FOI matters—a notion that continues to make some very uncomfortable and is considered to be "self-serving."

This year, more than any other, is when every journalist should have been tracking amendments to the FOI act.

During SPJ's national convention, Congress passed a much-awaited bill that had bounced around since 1991.

It's the Electronic Freedom of Information Amendments of 1996.

**The war is too big for journalists to fight each other**  
We will stand together and win — or we will lose

For years, the federal law has lagged behind technological advances that make enormous databases easy to acquire. Individual states also have been grappling with legislative definitions of computer time, programming costs and release of records that third-party vendors acquire and manage for government.

In August, the Society asked 129 individuals and organizations on our FOI Alert list to ask for passage of that pending legislation.

Since it passed, give yourself a pat on the back, especially if you responded to the alert.

If you didn't respond, then shame on you.

□□□

In my second term as FOI Committee Chair for the Society, I would like to welcome several volunteers who have accepted key posts as state sunshine chairs.

They are:

■ Roz Hutchinson in Kansas, a reporter at the Wichita Business Journal.

■ Bill K. Rutherford in Arkansas, an associate professor at the University of Arkansas and executive editor at Herald Publishing Company.

■ Julie Bolen in South Carolina, a staff writer at The Lancaster News.

■ Chip Wilson, a staff writer at the Charlotte

# **Think you'd like a computer that travels with you? Think it's out of reach? THINK AGAIN!**

**SPJ will award an IBM ThinkPad, the ultraportable computer, to the member who recruits the most new members between now and July 31, 1997. That's a prize worth more than \$3,000!**

## **Think contests are silly? Think you can't win?**

### **THINK AGAIN!**

**When you recruit one member, you'll get a prize. When you recruit your fifth member, you'll get a prize. When you recruit your tenth member, you'll get a prize.** It just keeps going and going! **AND** for every member you recruit your name goes into the hat for all sorts of prizes, including an IBM ThinkPad! That's right, we're giving away two computers! And a boatload of other prizes. So, if you've never won anything before, take heart. Everyone who recruits a new member is a winner with this contest!

**Those other prizes include:** MCI pre-paid phone time, week-long luxury car rentals from Dollar Rent A Car, free e-mail accounts from Juno, Quest travel club memberships, gift certificates from Pennywise Office Products, portfolios from MBNA, video conferencing from Kinko's. Other prizes will be added to the cache as the year progresses.

## **Think you'll never get your fifteen minutes of fame?**

### **THINK AGAIN!**

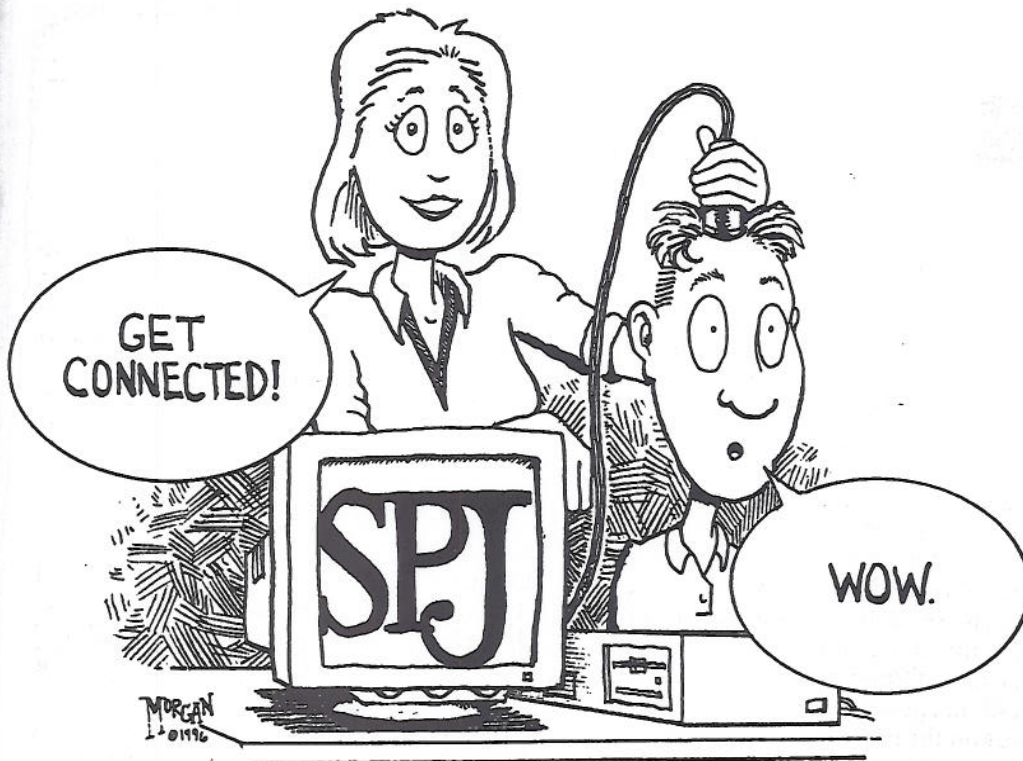
Your good deeds will not go unnoticed. Everyone who recruits will be acknowledged in Quill, and the more you recruit, the more often your commitment will be recognized. Come on, get your name out there in front of your peers, show them you're a go-getter!

## **Think your chapter can't get any more exciting?**

### **THINK AGAIN!**

**There are special prize packages for chapters.** To level the playing field the competition is broken into categories of Large Pro Chapter (more than 75 members) Small Pro Chapter (fewer than 75 members) and Campus Chapters. Chapters recruiting the most members in each category will receive an all-expenses paid trip for one member to the 1998 SPJ National Convention in Los Angeles and a \$100 credit for chapter merchandise from the soon to be released Chapter ImPRESSions catalog.

**Second- and third-place prize packages will be awarded in each category also.** Second-place chapters will receive a \$300 chapter program grant and a \$100 credit for chapter merchandise from the Chapter ImPRESSions catalog. Third-place chapters will receive a \$100 credit for chapter merchandise from the Chapter ImPRESSions catalog.



# network@spj.

## Journalism today isn't easy.

We know you're a hard-working journalist, trying to get ahead in a competitive field where the bucks are less than plentiful and the rules are always changing. We can help.

### Here's how:

- ▶ **Continuing professional education.** *Quill* magazine keeps you up-to-date on the industry from the working journalist's perspective—you'll find it in your mailbox ten times a year. **The National Convention, regional conferences and specialized workshops** held nationwide provide you with the intense training you need to stay on top.
- ▶ **Career services and support.** *Jobs-for-Journalists* is your weekly listing of jobs available nationwide in all areas of today's journalism—from television production to teaching positions you'll know what's available and where. You'll also be eligible for **discounts** on items ranging from office supplies to paging services, to help you stay connected.
- ▶ **Journalism advocacy.** SPJ's **Legal Defense Fund** wages court battles across the country to secure First Amendment rights, supporting state Freedom of Information hotlines, computer bulletin boards and organizations that resolve First Amendment conflicts before they require costly litigation. When you're faced with a legal battle, the Legal Defense Fund is ready to help. **Project Sunshine** is the grass-roots campaign to improve the ability of journalists and the public to obtain access to government records and proceedings and to brighten the forecast for open government in the years ahead. When you're pushed to the wall, SPJ is there with the tools you need.

**Get connected to the network that brings you the information you need when you need it—locally and nationwide.**

### Membership and Contribution Categories

These are the guidelines for membership in the Society of Professional Journalists. The Society is an organization of *persons who direct, edit and prepare news and editorial content of independent news editorial products, and teachers and students engaged in the study of those areas.*

**Professional Members** spend more than half their working time as journalists or are journalism educators.

**Retired Members** are Professional Members who choose to convert to this category after retirement by notifying headquarters in writing. Retired journalists and journalism educators who would have qualified as defined above may join as new members in this category.

**Student Members** are college students who have a demonstrated interest in journalism, are pursuing a course of study in journalism, or are involved in the production of news as defined above. Professional Members who have returned to school full-time can convert their membership to this category.

**Post-graduate** membership is limited to two years following college graduation. At the end of two years all Post-Graduate Members will be upgraded to the category of

Professional Member; Post-Graduates who have not established a career in journalism that meets the above eligibility guidelines will lose this privilege if at any time they allow their dues to lapse. Student Members in good standing automatically qualify as do members of the Society of Collegiate Journalists. Recent graduates who were not Student Members and have a demonstrated interest in journalism as defined above may also join in this category.

**Associates** support the mission and goals of SPJ, but are not eligible for regular membership.

**High school students** may join as associates at the student rate.

**Institutional** membership is open to media organizations provided that the principal business (50% of revenue) is within the scope defined above. For more information contact headquarters at (317) 653-3333.

To be considered for membership with the Society of Professional Journalists, please type or print clearly below.  
**Preferred mailing address:**  Home  Business/School  
 Mr.  Mrs.  Ms.  Miss

FIRST NAME \_\_\_\_\_ MI. \_\_\_\_\_

LAST NAME \_\_\_\_\_

### Home Address

STREET \_\_\_\_\_ APT. NO. \_\_\_\_\_

CITY \_\_\_\_\_

STATE/COUNTRY \_\_\_\_\_ ZIP CODE (9-DIGIT) \_\_\_\_\_

HOME TELEPHONE \_\_\_\_\_ HOME FAX \_\_\_\_\_

### Business/School Address

TITLE/GRADUATION DATE \_\_\_\_\_

EMPLOYER/SCHOOL \_\_\_\_\_

STREET \_\_\_\_\_ SUITE/APT. NO. \_\_\_\_\_

CITY \_\_\_\_\_

STATE/COUNTRY \_\_\_\_\_ ZIP CODE (9-DIGIT) \_\_\_\_\_

E-MAIL ADDRESS \_\_\_\_\_

BUSINESS TELEPHONE \_\_\_\_\_ BUSINESS FAX \_\_\_\_\_

- Please send me *Jobs-for-Journalists* newsletter information.  
 Referred/sponsored by: \_\_\_\_\_

(IF SPJ MEMBER, GIVE NAME AND MEMB. NO. IF POSSIBLE)

### Dues Summary

Please compute your national dues below and submit payment in U.S. dollars.

	1 year	2 years	3 years
<b>Professional</b> .....	<input type="checkbox"/> \$68	<input type="checkbox"/> \$136	<input type="checkbox"/> \$204
<b>Retired</b> .....	<input type="checkbox"/> \$34	<input type="checkbox"/> \$68	<input type="checkbox"/> \$102
<b>Student</b> .....	<input type="checkbox"/> \$34	<input type="checkbox"/> \$68	<input type="checkbox"/> \$102
<b>Post-graduate</b> .....	<input type="checkbox"/> \$34	<input type="checkbox"/> \$68	n/a
<b>Associate</b> .....	<input type="checkbox"/> \$90	<input type="checkbox"/> \$180	<input type="checkbox"/> \$270
<b>High School Associate</b> .....	<input type="checkbox"/> \$34	<input type="checkbox"/> \$68	<input type="checkbox"/> \$102

Postal surcharge \$21 (required for residents outside U.S.) .....\$ \_\_\_\_\_

President's Club \$50 (optional) .....\$ \_\_\_\_\_

Quill Endowment \$35 (optional) Free Mug! Your choice:  Quill  SPJ .....\$ \_\_\_\_\_

Legal Defense Fund Contribution (optional) .....\$ \_\_\_\_\_

Jobs for Journalists Newsletter (optional) \$25 six-month subscription .....\$ \_\_\_\_\_

Local Chapter Dues .....\$ \_\_\_\_\_

LOCAL CHAPTER NAME \_\_\_\_\_ \$ \_\_\_\_\_

**TOTAL** .....\$ \_\_\_\_\_

By choosing to join the **President's Club**, you are providing extra support of SPJ and will be recognized for your support. Club dues are an additional \$50.00 annually. **Quill Endowment** donations are tax-deductible and help Quill continue its commitment to excellence in journalism. Donors will be recognized in Quill. **Legal Defense Fund** contributions provide emergency assistance and grants to local and national Freedom of Information activities. Dues payments to SPJ are not tax deductible as charitable contributions. In some circumstances, they may be considered tax-deductible business expenses. Please consult your financial adviser.

### Method of Payment

Money Order  Check \_\_\_\_\_

Credit Card \_\_\_\_\_ CHECK NUMBER \_\_\_\_\_

VISA  MasterCard  American Express

CREDIT CARD NUMBER \_\_\_\_\_ OCT. 96

SIGNATURE \_\_\_\_\_ CARD EXP. DATE \_\_\_\_\_

Mail or fax to:  
**Society of Professional Journalists**  
 16 South Jackson St. • Greencastle, Indiana 46135  
 (317) 653-3333 • fax: (317) 653-4631  
 spj@link2000.net

**To talk to an active member of SPJ,**  
 contact **Bruce Cadwallader** at  
**BCADWALL@DISPATCH.COM**  
 or call toll-free (800) 848-1110, ext. 5218;  
 in Ohio call (800) 282-0263 ext. 5218.

**Society of Professional Journalists  
National Headquarters**

P.O. Box 77  
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(317) 653-3333

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Ext. 248

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80202, (303) 820-1663

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4. Ginny Frizzi, office of public relations, Point Park College, 201 Wood St., Pittsburgh, PA 15222, (412) 392-3987
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8. Melanie Busch, Arlington Morning News, 1112 Copeland Rd., Suite 400, Arlington, TX 76011, (817) 436-4204
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10. Laurie Williams, city editor, Tri-City Herald, P.O. Box 2608, Tri Cities, WA 99302-2608, (509) 582-1533
11. Linda Seebach, editorial page editor, Valley Times (Pleasanton), P.O. Box 607, Pleasanton, CA 94566, (510) 847-2160
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Bruce W. Sanford, Baker & Hostetler, Suite 1100, 1050 Connecticut Ave., N.W., Washington, DC 20036, (202) 861-1500

**Sigma Delta Chi Foundation**

Paul Steinle, president, University of Miami, P.O. Box 24817, Coral Gables, FL 33124, (305) 284-2265

BY STEVE GEIMANN  
SPJ PRESIDENT

I'm embarking on my newest and latest professional adventure. As President of the Society of Professional Journalists for the next year, I have the opportunity to lead this organization through some very interesting and challenging times for the journalism profession.

Much is changing about our business: fewer newspapers, more cable stations, explosive growth of online services and customized news software. These changes will provide real excitement and opportunity for the next year and beyond. As senior editor of Communications Daily, a trade publication, I get a front row seat on the new developments as they come out of engineers' minds and are applied by the creative people in every business.

It's been fun looking at the new tools. I've stood on the floor of a trade show and, with a palmtop keyboard, sent e-mail through the skies. I've held cellular phones as light as a letter and talked with colleagues halfway around the world, and they sounded like they were right next door. I've watched TV with students who talked, by TV, with other students hundreds of miles away, and thought nothing of it.

These new devices will allow us to speed transmission of our stories, keep in constant contact with the office and conduct meaningful interviews with our subjects far away without having to rely solely on the nuance of the voice. These new gadgets will mean we'll never be remote or out of touch. We'll never be locked out of a reference room or held hostage to someone's arbitrary calendar or messenger service for getting information. The communications technologies now being developed – and used – will make our jobs easier, perhaps more efficient and maybe even more useful to our audiences.

But they'll help us only when we use them wisely and understand our role in our Society. All the gadgets, gizmos and gimmicks are only the surface; we, as professional journalists, have to provide the insight, context and relevance to make what we do useful – necessary – for our citizens.

As one of my first acts as president, I've created a Task Force on Online Journalism and New Technologies, chaired by At-Large Director Staci D. Kramer, to put SPJ into a leadership role on

this issue. This group of SPJ members who have worked on the Internet and are familiar with the issues will set an agenda for the rest of journalism as online applications expand. My charge to Staci's group is to help professional journalists understand and embrace the technologies and give credentialing organizations help and guidance in working with these new colleagues.

By the way, you can drop me a note by e-mail (SGeimann@aol.com) at any time. I intend to be very active on the Internet, using these new technologies to flash SPJ's statements around the world. My laptop computer is never more than a few feet away, no matter where I travel.

But so much more represents a challenge for



## New adventures in journalism ahead for all of us But our commitment to public remains firm

those of us who believe in a free and independent press to continue providing an accurate, balanced and clear account of today's events. All that we do rests with those basic concepts. Our readers and viewers expect us to be accurate in the stories we tell. They expect us to offer a balanced report on events. And, above all, they rely on us for clarity and context.

We ended our national convention in Washington, D.C. in September with a revised Code of Ethics that makes very clear what we believe and how we think professional, responsible journalists do their jobs. This code should be embraced by all journalists and we, as SPJ, should speak up for others who make ethical decisions in how they cover the news.

As I begin my new job, I have to thank Greg Christopher, SPJ executive director, and the staff for its hard work and tireless dedication to our cause. And I have to thank my predecessors, especially Kelly Hawes and Reggie Stuart, who led SPJ through good times and bad and saw to it that we survived.

With the help and support of all our members, we'll keep SPJ as the leader in speaking up for responsible journalism, for access to government records, for equal treatment of campus and professional journalists and for the continuing professional development of our members. ☐



**EVENTS**

**November 9-10:** Writers Workshop, Knoxville, Tennessee

**November 22-24:** FOI/Sunshine Conference, Charleston, South Carolina

**November 22-24:** Front Line Editing Workshop, Charleston, South Carolina

**November 22-24:** Pulliam Editorial Fellowship Banquet, Charleston, South Carolina

**January 25:** SPJ Executive Committee Meeting, St. Petersburg, Florida

**DEADLINES**

**November 15:** Deadline for chapter grant proposals

**January 15:** Deadline for 1997 Ted Scripps Leadership Retreat applications

**SPJ BRIEFS**

**Pulliam fellowship winner researches changing values**

Keith C. Burris, editorial page editor of the Journal Inquirer in Manchester, Connecticut, has been awarded SPJ's 1996 Eugene C. Pulliam Editorial Fellowship. Established to enhance the professional development of editorial writers, the \$30,000 grant from the Sigma Delta Chi Foundation, SPJ's educational arm, will allow Burris to travel, study and extensively research the disintegration of America's families and the future of its children.

"I am convinced that there is absolutely no issue of more importance in our society today," said Burris. "There is no crisis more real or pressing. I write about these matters often and am convinced of their short- and long-term importance. And I have to say that my overall impression is that our society is not dealing with, nor is it yet equipped to deal with, the crisis of family disintegration."

Burris plans to divide his research into four categories:

- Impact of the divorce rate
- Disappearance of the father from families
- Explosion of child abuse and domestic violence
- Increasing reliance on schools and day care as family surrogates

He plans to publish his findings in a book tentatively titled "In Search of Fam-

ily Values."

"The jurors found Burris to be a strong writer with a prevailing conviction and purpose," said Jean Otto, SPJ past president and chair of the judging committee. "He is long on experience and offered a project that we agree is one of the most important to our society today."

Burris holds a doctorate in political philosophy from the University of Pittsburgh. He served as associate editor of The (Toledo) Blade and has written for The Hartford Courant, The Winston-Salem Journal, Pittsburgh Post-Gazette, Boston Globe, Los Angeles Times, and the Christian Science Monitor. Since 1989, he has received seven SPJ awards for his columns and editorials.

Burris is excited about the opportunity the fellowship provides to step back from the daily routine and take a broader view of his studies. "We're production workers in this business," he said. "We do have to grind it out every day. If we can say something intelligent that's a real feat, but I'm not sure you can do it every day without stopping to refuel."

The editorial fellowship began in 1977 through a grant from Mrs. Eugene C. Pulliam. The grant honors the memory of Eugene C. Pulliam, one of the founding members of Sigma Delta Chi, the forerunner of SPJ. During his journalistic career, Pulliam served as publisher of The Arizona Republic, The Phoenix Gazette, The Indianapolis Star, The Indianapolis News, The Muncie Star, Muncie Evening Press and Vincennes Sun-Commercial.

Burris will receive the award at the second annual Pulliam Editorial Fellowship Banquet, November 23, in Charleston, South Carolina.

**CHAPTER NEWS**

**Tips from the trenches**

Some of the best editors in Florida discussed their craft at an August 24 professional-development workshop for fellow editors and those who aspire to be editors someday. The one-day event, part of a series of workshops presented by the South Florida pro chapter, was held at Barry University in Miami Shores.

Panelists addressed getting the best work out of reporters, practical advice for working daily copy and special projects, and tips on dealing with the public, del-

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egating tasks and working the career ladder. Speakers included the Miami Herald's Ileana Oroza, a former foreign editor and features editor just back from a year at Columbia University; Anne Glover, assistant managing editor for the copy desk at the St. Petersburg Times; Ken Cogburn, executive editor of the Palm Beach Daily Business Review; and Herald features writer John Barry, a former editor who has just returned to the craft at Tropic Magazine.

### Steering toward secrecy

The Willamette Valley pro chapter in Oregon is asking the public to think twice about calling for more government secrecy in the wake of concerns about motor vehicle records availability. "I'm sympathetic to members of the public who are concerned with privacy," said Rob Priewe, chapter president. "But we need to weigh those concerns with the public's right to freedom of information."

Many Oregonians were concerned

about news reports that their motor vehicle records had become available over the Internet. Citizens seemed unaware that license and vehicle registration information have been available for years. The case stems from an Oregon man who paid for the entire DMV data base and loaded it onto the Internet.

### PEOPLE

Merrill Bankester, former SPJ vice president of campus chapter affairs, retired as dean of Troy State University's Hall School of Journalism on Sept. 1. He joined the TSU faculty in Troy, Alabama, after 10 years at the University of Memphis. He was appointed dean at TSU in 1981 after serving as acting dean for one year.

A medical reporter for the Press-Enterprise in Riverside, California, Mike Schwartz received a William Harvey Award for excellence in newspaper writing. Sponsored by the American Medical Writers Association, National Institute of Health and Bristol-Myers Squibb Co., the

## The Sigma Delta Chi Awards in Journalism

For 65 years, the Society of Professional Journalists has presented Sigma Delta Chi Awards for outstanding contributions to journalism. These awards are among the most coveted in the profession. Winners receive the SDX bronze medallion and a plaque. The awards offer 29 categories for Print, Radio and Television Journalism, plus Research in Journalism.

Winners are announced in the special journalism awards issue of *Quill*, with awards presented at the 1997 SPJ National Convention in Denver, Colorado.

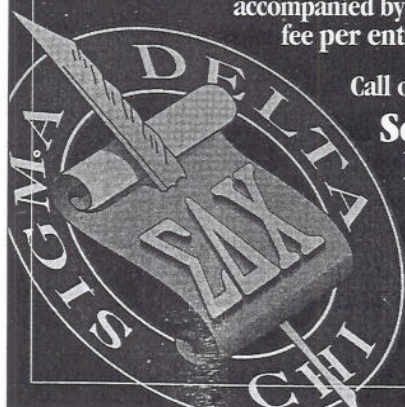
The competition is open to all journalists. Submissions must be accompanied by an entry form, a cover letter and a \$60 fee per entry.

Call or write for guidelines & entry forms.

### Society of Professional Journalists

16 South Jackson Street  
Greencastle, Indiana 46135-1514  
(317) 653-3333; Fax (317) 653-4651  
JoLayne Green, Awards Coordinator

Deadline for entries: February 1, 1997



## SPJ Fax ON DEMAND

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An index to the documents currently available

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Find out more about the nation's largest, most broad-based association for journalists and how you can join
- 402 SPJ membership update/renewal form**  
What's new with you? Have you updated your member profile?
- 403 SPJ's Code of Ethics**  
The Society's Code of Ethics as adopted at the 1996 National Convention
- 404 Local chapter contact information**  
Names and contact information for the Society's local professional chapters located nationwide
- 405 Campus chapter contact information**  
Names and contact information for the Society's college campus chapter advisers located nationwide
- 406 Quill subscription information**  
Current subscription rates and information—subscription form included
- 407 1997 Pulliam Fellowship information & registration form**  
\$30,000 fellowship for editorial writing—Application deadline: July 1, 1997

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A listing of the latest books for journalists available from SPJ—discounts on selected books for SPJ members!
- 410 SPJ pro chapter annual report guidelines**  
For SPJ pro chapter leaders—guidelines and forms for the 1995-96 annual report
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A wrapup of election projects around the country, compiled by Deborah Potter of the Poynter Institute—updated periodically
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Find out what's happening with access legislation and get tips on what the future may hold for FOI. Charleston, S.C.—November 22-24, 1996
- 416 SPJ Writers Workshop information and registration**  
Two days of intensive programs to improve your writing skills. Knoxville, Tenn.—November 9-10, 1996

(317) 653-2070



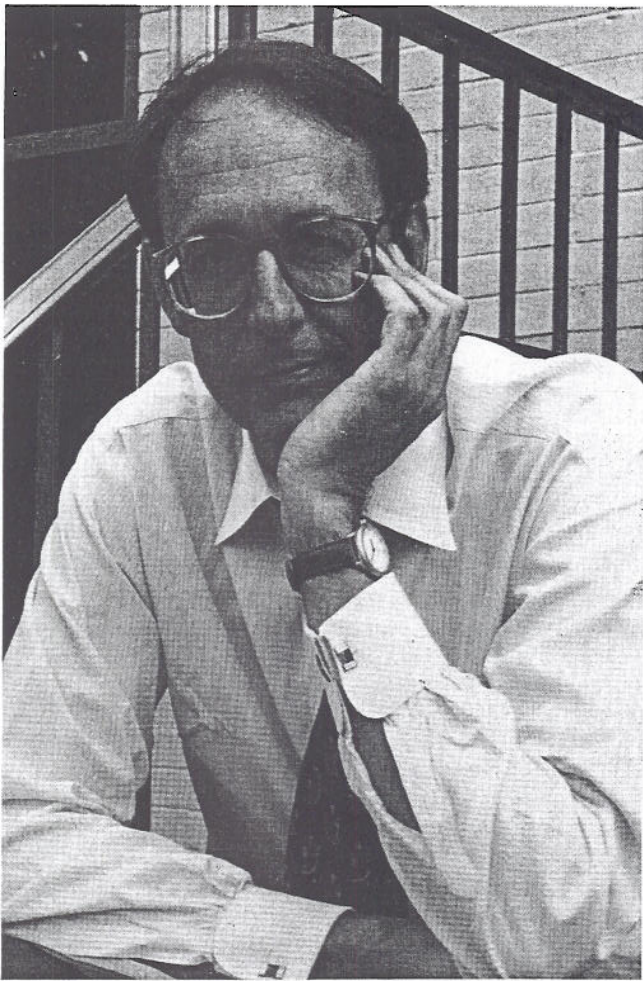


PHOTO BY AMANDA DICKSON

*“The Library alone is reason enough to join the National Press Club. It’s the best of its kind and a leader in providing journalists with new skills and and broader, faster access to information.”*

ANDY ALEXANDER, Deputy Washington Bureau Chief, Cox Newspapers; National Press Club Member; President, Board of Directors, Friends of the National Journalism Library

“Our business is changing so rapidly that reporters and editors must be interested in journalism education. Over the past several years, the library at the National Press Club has emerged as a leader in that regard. And when the renovated and expanded library opens this fall, it will be THE center for training journalists in computer-assisted reporting.

Whether they’re working on deadline or on long-term investigations, journalists will be able to instantly extract information by computer from an array of the world’s most extensive databases. The highly trained staff understands the needs of reporters and editors. Not only are they specialists in the electronic retrieval of information, they’re helpful in making journalists aware of the scores of computer databases available, and how to access them.

Simply put, the new library at the National Press Club will be the best of its kind.”

To find out more about membership in the National Press Club, call Lisa Lindstrom at (202) 662-7506 or (800) 949-JOIN or visit our web site at:

[http://town.hall.org/  
places/npc/](http://town.hall.org/places/npc/)

# Journalism Awards and Fellowships

This is the first of three special awards and fellowships sections. More listings will appear in the next two issues of *QUILL*. For information on including your award or fellowship, contact *QUILL*'s advertising department at (317) 653-3333.

## AWARDS

American Planning Association  
**APA Journalism Award Competition**  
122 S. Michigan Ave., Suite 1600  
Chicago, IL 60603  
Contact: Sylvia Lewis  
Tel: (312) 431-9100

The American Planning Association Journalism Award Competition recognizes excellence in coverage of land planning issues by North American newspapers. Single stories, a series, or special sections are welcome. Winning reporters receive cash prizes and plaques. Entries are invited in three categories: small newspapers (circulation below 35,000), medium-sized newspapers (circulation 35,000-100,000), and large newspapers (circulation above 100,000). The deadline is January 15, 1997 for articles printed in 1996.

*Circle number 1 on the reader service form for more information.*

Brechner Center for  
Freedom of Information  
**Joseph L. Brechner  
Freedom of Information Award**  
3208 Weimer Hall,  
University of Florida  
Gainesville, FL 32611-8400  
Tel: (352) 392-2273  
Fax: (352) 392-3919  
Contact: Professor Sandra F. Chance,  
Assistant Director

The Brechner Center for Freedom of Information sponsors the 11th Annual Joseph L. Brechner Freedom of Information Award. This national \$3,000 award recognizes excellence in a magazine, newspaper article or series of articles written on the subject of freedom of information, access to governmental information or the First Amendment. The winner receives a trip to the University of Florida to accept the award and is invited to speak to journalism classes. Deadline: March 15, 1997. Send five copies.

*Circle number 2 on the reader service form for more information.*

Joan Shorenstein Center  
**Goldsmith Prize for  
Investigative Reporting**  
Kennedy School of Government  
79 JFK Street

Cambridge, MA 02138  
Tel: (617) 495-8269

The Joan Shorenstein Center on the Press, Politics and Public Policy at Harvard University's John F. Kennedy School of Government is accepting submissions for the Goldsmith Prize for Investigative Reporting. This \$25,000 award, funded by the Goldsmith-Greenfield Foundation, honors the journalist(s) whose investigative reporting best promotes more effective conduct of government, the making of public policy, or the practice of politics. Annual deadline: November 1, 1996.

*Circle number 3 on the reader service form for more information.*

National Association of Secondary School  
Principals (NASSP)  
**Benjamin Fine Awards**  
NASSP Department S  
1904 Association Dr.  
Reston, VA 20191

Contact: Robert Prouty,  
Public Relations  
Tel: (703) 860-7331  
e-mail: proutyr@nassp.org

The deadline is near for nominations in the only national education award recognizing journalists and editors—the 16th Annual Benjamin Fine Awards for Outstanding Education Reporting. Articles must have been published in a newspaper or magazine between October 16, 1995 and October 14, 1996. Grand Prize winner receives \$1,500. Deadline for entries is October 18, 1996. Write or call for nomination form and entry guidelines.

Society of Professional Journalists  
**The Sigma Delta Chi Awards**  
16 S. Jackson St.  
Greencastle, IN 46135-1514  
Contact: JoLayne Green  
Tel: (317) 653-3333



## Edward Weintal Prize for Diplomatic Reporting GEORGETOWN UNIVERSITY

The prize was created in 1974 under the will of Mr. Weintal, a diplomatic correspondent for *Newsweek* magazine. Both a print and broadcast award is made each year to honor journalists whose work reflects initiative, hard digging, and bold thinking in the coverage of American diplomacy and foreign policy. Nominations by the editor or producer may be made on the basis of a specific story or series or on the basis of a journalist's overall news coverage. Material authored in previous calendar year is eligible for submission.

Deadline: mid-January  
Awards Ceremony: April, in Washington, D.C.



Submit entries to: Institute for the Study of Diplomacy, ATTN: Weintal Award, 1316 36th Street, N.W., Washington, D.C. 20007. Format of entries: Broadcast-VHS tapes with printed narrative; Print-copy of article(s). Application fee: None. For additional information, contact: Charles Dolgas, 202-965-5735 x3010.

Fax: (317) 653-4631

The Sigma Delta Chi Awards honor the best work in print and broadcast journalism. The awards are sponsored by the Society of Professional Journalists, serving journalists since 1909. Entries must have been published or aired during 1996. Winners receive a bronze medallion and a plaque. Entries must be postmarked no later than February 1, 1997. Materials will be judged by distinguished veteran journalists from across the country.

Circle number 4 on the reader service form for more information.

**The Worth Bingham Prize**  
1616 H St., NW, 3rd Floor  
Washington, DC 20006  
Contact: Susan Talalay,  
Project Director  
Tel: (202) 737-3700  
Fax: (202) 737-0530  
E-mail: susan@cfj.org

The \$10,000 Worth Bingham Prize honors newspaper or magazine investigative reporting of stories of national significance where the public interest is being ill-served. The deadline is February 15, 1997 for entries published during the 1996 calendar year.

Circle number 5 on the reader service form for more information.

## FELLOWSHIPS

American Political Science Association  
**Congressional Journalism Fellowships**  
1527 New Hampshire Ave., NW  
Washington, DC 20036  
Tel: (202) 483-2515

Congressional Fellowships for Journalists (1997-98): Broadcast, print, and those with analytical interest in public policy and in communications invited to apply for 10 month program working as legislative assistants on Capitol Hill. Bachelor's degree and 2-10 years full-time experience, with focus on national government and politics required. Program begins November 1997, concludes August 1998. \$28,000 stipend plus travel. Apply before December 1, 1996.

Circle number 6 on the reader service form for more information.

## Economics and Business Journalism

"For people who are not looking for a break from work but really want to seriously increase their knowledge of the business world, I'm sure there is no better fellowship."

**Joseph B. Treaster, reporter**  
*The New York Times*

"Our weekly dinners were a real treat. It's remarkable how even banking regulation can be made interesting over veal, red wine and chocolate cake."

**Mark Piesanen, producer**  
"The News with Brian Williams," MSNBC

"It was one of the most challenging—and rewarding—experiences I've ever had. I'd do it again in a New York minute."

**Kim Norris, business reporter.**  
*St. Petersburg Times*

## The Knight-Bagehot Fellowship

Treaster, Piesanen and Norris were 1995-1996 Fellows in the Knight-Bagehot Fellowship, an intensive program of study at Columbia University for journalists interested in improving their understanding of economics, business and finance. Recent guest speakers have included Warren Buffett, Nicholas Brady, John Kenneth Galbraith, Richard Jenrette, Gerald Levin, Arthur Levitt, Pete Peterson, Paul Craig Roberts, Walter Shipley, Richard Syron, Paul Volcker and Mortimer Zuckerman.

The nine-month fellowship is open to journalists with at least four years' experience. Fellows receive free tuition and a living-expense stipend. Qualified Knight-Bagehot Fellows may be eligible for a Master's in Journalism upon completion of this rigorous program.

**Deadline for the 1997-1998 academic year is March 1, 1997.**

Contact: Ms. Terri Thompson, Director, Knight-Bagehot Fellowship  
Columbia University Graduate School of Journalism  
Mail Code 3850, 2950 Broadway, New York, New York 10027  
PHONE: 212-854-6840 FAX: 212-854-7837 e-mail: tat5@columbia.edu

Columbia University is an affirmative action/equal opportunity institution.

## Frank Batten Fellowships

Darden Graduate School of  
Business Administration  
University of Virginia

For full-time journalists from any medium with at least three years of news-gathering experience to earn an M.B.A. in a full-time, two-year program, and who intend to pursue a career in media management.

Must be U.S. citizens and meet all requirements as an entering M.B.A. student including Graduate Management Admissions Test.

Three Batten Fellowships can be awarded annually. Tuition, fees and stipend for living expenses provided.

For more information:

Director of Financial Aid  
The Darden School  
University of Virginia  
P.O. Box 6550  
Charlottesville, VA 22906  
1-800-UVA MBA1 or 804-924-7281  
E-mail: darden@virginia.edu



**The Freedom Forum  
Asia Fellowships for Journalists**

University of Hawaii  
2530 Dole Street  
Honolulu, HI 96822-2383  
Contact: Professor D.W.Y. Kwok  
Tel: (808) 956-7733  
Fax: (808) 956-9600

The fellowship provides a mid-career opportunity for professional journalists to broaden their knowledge and understanding of Asian cultures and institutions through advanced academic training in Asian studies; and how to make available to the American media returning employees and other fellows who, having completed the program, are well equipped to report and interpret developments relating to Asia and its peoples. Fellows receive \$27,000, tuition, and round-trip airfare. Applications are invited from working journalists, preferably at mid-career level. Applicants must have an academic or professional background sufficient to the university's standards for admission to graduate study. Application deadline: February 15, 1997.

*Circle number 7 on the reader service form for more information.*

**International Center for Journalists  
The Arthur F. Burns  
Fellowship Program**

11690-A Sunrise Valley Dr.  
Reston, VA 20191  
Contact: Project Director  
Fax: (703) 620-6790  
E-mail: editor@cfj.org

A two-month (August-September) working fellowship exchange for young German and American print and broadcast journalists. Ten participants from each country work at counterpart news organizations. Travel expenses and a stipend are provided. Funded by private-sector grants. Applicants should be working journalists in any news media, under the age of 33, with demonstrated journalistic talent and an interest in U.S.-European affairs. Established in 1990. Contact the Center by fax or mail for detailed application and program guidelines. Application deadline: March 1.

*Circle number 8 on the reader service form for more information.*

**International Center for Journalists  
ICFJ-IBCC Journalism  
Fellowship in Japan**

1616 H St. NW, Third floor  
Washington, DC 20006  
Contact: Project Director  
Fax: (202) 737-0530  
E-mail: editor@cfj.org

Eight American journalists are selected to travel to Japan for a two-week working program in the fall that includes visits to Japanese news media, business leaders and

government officials. The second week is devoted to independent research and reporting projects designed by each participant. Sponsored by Tokyo-based International Business Communications Council. Applicants should have at least five years of media experience and no substantial previous travel to Japan. Established in 1991. Contact the Center by fax or mail for detailed application and program guidelines. Application deadline: August 15.

*Circle number 9 on the reader service form for more information.*

**International Center for Journalists  
The Knight International  
Press Fellowships**

1616 H St., NW, Third Floor  
Washington, DC 20006  
Contact: Project Director  
Fax: (202) 737-0530  
E-mail: editor@cfj.org

Sponsored by the Knight Foundation, this program will award approximately 25 American journalists and news executives with fellowships to spend from two to nine months abroad in a variety of teaching, training, consulting and assistance roles, usually working in conjunction with overseas media centers. The program will pay expenses and provide a stipend. Contact the Center by fax or mail for detailed application and program guidelines. Launched in late 1993. Applications are competitive and reviewed on a rotating basis throughout the year. Application deadlines: January 15 and July 15.

*Circle number 10 on the reader service form for more information.*

**Kaiser Media Fellowships in Health**

Henry J. Kaiser Family Foundation  
2400 Sand Hill Rd.  
Menlo Park, CA 94025  
Contact: Penny Duckham,  
Executive Director  
Tel: (415) 854-9400  
Fax: (415) 854-4800

Six Kaiser Media Fellowships will be awarded in 1997 to print, television and radio journalists to pursue individual projects of their choice related to health policy and public health issues. In addition to completing their own research and reporting projects, fellows meet as a group four times a year for in-depth briefings and site visits focused on health policy and public health issues. Fellows receive an annual stipend of \$45,000, plus travel for research purposes. Application deadline: March 14, 1997.

*Circle number 11 on the reader service form for more information.*

Princeton University  
**Ferris/McGraw Fellowships**  
Humanities Council  
122 East Pyne  
Princeton University

**Compete  
with the best.**

For 26 years, the Society of Professional Journalists has presented the Mark of Excellence Awards honoring the best in student journalism. Judged at the regional and national level, the awards offer 28 categories for print, radio and television collegiate journalism.

Regional award winners are honored at SPJ's spring regional conferences with national winners announced in *QUILL* and honored at the 1997 SPJ National Convention in Denver, Colorado.

The competition is open to anyone enrolled in a college or university and studying for an academic degree in 1996. Submissions must be accompanied by an entry form and a fee of \$7 for SPJ members, \$14 for non-members, and sent directly to regional judges listed on the entry form. Call or write for guidelines & entry forms.

Society of Professional Journalists  
16 South Jackson Street  
Greencastle, Indiana 46135  
(317) 653-3333; Fax (317) 653-4631  
E-mail: spj@internetc.com  
JoLayne Green, Awards Coordinator

**Deadline for entries: February 1, 1997**

**MARK of  
EXCELLENCE  
AWARDS**

Princeton, NJ 08544  
Tel: (609) 258-4713  
Fax: (609) 258-2783

Ferris Professor of Journalism and the McGraw Professor of Writing. Visiting appointments, both commuting and residential, for writers and journalists to teach 12-week seminars during the 1997-98 academic year. Deadline to apply is November 15, 1996. Brochure available upon request.

*Circle number 12 on the reader service form for more information.*

Sigma Delta Chi Foundation  
**Pulliam Fellowship  
for Editorial Writing**  
16 S. Jackson St.  
Greencastle, IN 46135  
Tel: (317) 653-3333  
Fax: (317) 653-4631

The \$30,000 award will be used by the recipient to study in a field of interest, to travel either in the United States or abroad, or both. The fellowship is designed to increase the writer's understanding to better serve the reading public. To qualify, applicants must have at least three years of full-time editorial writing experience. While there is no application form, each applicant must submit: 1) a personal biography, 2) a summary of

# PAUL MILLER

WASHINGTON REPORTING  
FELLOWSHIPS

## Applications being accepted.

The Paul Miller Washington Reporting Fellowships are designed to help Washington-based print and broadcast journalists develop better locally oriented news stories in the nation's capital.

Beginning in Spring 1997, 15-20 fellows will spend two days a month for 12 months meeting with experienced Washington journalists, visiting the places where local news originates, learning how to obtain information, and getting to know news sources.

**ELIGIBILITY:** The fellowships are primarily for journalists currently or about to be assigned to Washington by any regional or national newspaper, wire service, or radio or television station maintaining a bureau in Washington.

Applicants' employers must endorse applications and affirm that participants will be permitted to attend all sessions.

**SELECTION:** Fellowships will be awarded based on applicants' potential to provide superior coverage of locally oriented news from Washington for readers and audiences across the country.

**SCHEDULE:** Applications are due January 17, 1997. Winners are announced in February 1997. Classes start in April 1997.

**LOCATION:** Most of the sessions will be held at The Freedom Forum World Center, 1101 Wilson Blvd., Arlington, Va.; others will take place on and around Capitol Hill.

**FACULTY:** The sessions will be led by Washington reporters, analysts, public-affairs specialists, lobbyists and others.

**FEES:** The fellowships are tuition-free. Meals and, when applicable, transportation will be provided.

**AFFILIATION:** The Paul Miller Washington Reporting Fellowships are an operating program of The Freedom Forum of Arlington, Va.



Additional information and application forms are available from:  
Paul Miller Washington Reporting Fellowships  
The Freedom Forum, 1101 Wilson Blvd., Arlington, VA 22209  
703/284-2859 [www.freedomforum.org](http://www.freedomforum.org)

professional experience, 3) five samples of editorials or editorial series, 4) plans for using the award, and 5) a letter of endorsement from the applicant's employer. Entries must be in English. Deadline is July 1, 1997. Circle number 13 on the reader service form for more information.

## INTERNSHIPS

The Dow Jones Newspaper Fund, Inc.  
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College juniors through graduate students can apply for 130 paid internships as newspaper copy editors, on-line editors and real-time financial information editors for Summer 1997. Twelve business reporting internships will be offered to minority sophomores and juniors. Each intern will receive one or two weeks of pre-internship training. Application deadline: November 15, 1996. Successful interns returning to college receive \$1,000 scholarships.

Circle number 14 on the reader service form for more information.

## READER SERVICE FORM

Use this reader service form to request **FREE** information about the awards and fellowships listed in this issue. Circle the numbers found at the end of each listing in this section.

Information will be sent from each award or fellowship. For faster service, call the individual award or fellowship directly.  
Valid through October 31, 1996

1	2	3	4	5	6	7
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**AWARDS**

Society of Professional Journalists  
**Mark of Excellence Awards**  
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 Greencastle, IN 46135-1514  
 Contact: JoLayne Green  
 Tel: (317) 653-3333  
 Fax: (317) 653-4631

The contest is open to anyone enrolled in a college or university and studying for an academic degree in 1996. The categories cover print and broadcast journalism. All entries must have been published or aired in 1996. The entrant must have been a student at the time of publication or broadcast. Work published or broadcast while working as a student intern is acceptable. Unpublished manuscripts and classroom exercises do not qualify. Criteria include: accuracy and completeness, effectiveness, writing style, enterprise and ingenuity, and extenuating circumstances. Judges will weigh the resources available to the students in selecting winners. Entries must be postmarked no later than February 1, 1997.

**'96-97 SPJ INTERNSHIP DIRECTORY**

THE LATEST EDITION OF THE SPJ INTERNSHIP DIRECTORY is newly updated with hundreds of internship listings in the print and broadcast journalism fields. The listings include all you need to know to find the best internships including application instructions. Also includes advice on completing internship applications and surviving the interview process, as well as what employers look for when hiring. To order, send \$7 to: Internship directory, 16 South Jackson Street, Greencastle, IN 46135. Fax: (317) 653-4631; Phone: (317) 653-3333. Ask for item #BK12.

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JOBS FOR JOURNALISTS—weekly newsletter of nationwide journalism jobs is available from SPJ. Find jobs in both print and broadcast in all market sizes. Average of ten jobs added to the list each week, running for 4 weeks. Listings include contact name and address. Six month fee for Jobs for Journalists—\$25 for SPJ members, \$100 for nonmembers. To subscribe, send a copy of your résumé and fee to: Jobs for Journalists Coordinator, 16 South Jackson Street, Greencastle, IN 46135. Fax: (317) 653-4631; Phone: (317) 653-3333.



UNIVERSITY OF  
**SOUTH CAROLINA**

The College of Journalism and Mass Communications seeks applicants for a full-time faculty position, not on the tenure track, in its electronic journalism program. This twelve-month position, a year-to-year renewable appointment at the rank of instructor, is available in January 1997, although the effective date might be postponed to July 1997 at the request of the successful candidate.

**Qualifications:** Minimum of 5 years professional experience in electronic journalism is required, with the majority of that experience producing television news. Bachelor's degree is required. Master's degree and part-time or full-time teaching experience will be given preference.

**Duties:** Teach, coach and mentor as part of a faculty team assigned to the College's senior semester capstone project in electronic journalism and possibly assist in other broadcast journalism courses. (Senior students produce a daily live half-hour television newscast broadcast over cable and also produce several daily live radio newscasts broadcast over the campus radio station.) Advise students on academic requirements and career planning. Participate in faculty governance and professional service activities.

**Salary:** Nationally competitive for academic positions.

**Application Procedure:** Screening of applicants will begin in October 1996, but applications will be accepted until the position is filled. Send letter of application, vitae/resume, VHS tape of three of your recent productions, and the names, addresses and telephone numbers of three references to:

Dr. M. Kent Sidel, Chair  
 Electronic Journalism Search Committee  
 College of Journalism and Mass Communications  
 University of South Carolina  
 Columbia, SC 29208

The University of South Carolina is an equal opportunity employer and specifically invites and encourages applications from women and minorities.

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# writers workshop

NOVEMBER 9-10

*at a glance*

**SPJ Writers Workshop**

**November 9-10, 1996  
Radisson Summit Hill  
Knoxville, Tennessee**

**Registration**

Register before Oct. 31 and receive the special discount rate of \$79 for SPJ members and \$89 for non-members. Register three or more individuals from your organization before Oct. 31 for only \$79 each. All registrations received after Oct. 31 are \$99 per person.

To register, fill out the registration form and return it to SPJ or call (317) 653-3333. The workshop will begin at 9:00 a.m. Nov. 9 and will run through noon Nov. 10.

**Workshop sponsored by**



**SCRIPPS HOWARD FOUNDATION**

**Hotel Information**

**Radisson Summit Hill  
401 Summit Avenue  
Knoxville, TN 37902  
(423) 522-2600**

Please make hotel reservations directly with the hotel. Be sure to mention the Society of Professional Journalists to receive the special group rate of \$69 per night. Hotel reservations should be made by Oct. 18. After this date, all reservations will be accepted on a space/rate available basis, solely at the discretion of the Radisson Summit Hill.

**For more information**

Contact the Society of Professional Journalists at (317) 653-3333.

## Making the best better.

The best writers in the country have one thing in common ... They never lose the desire to learn.

Even the most experienced pro understands there is always room for improvement. And that's what SPJ's Knoxville Writers Workshop is all about. It is an opportunity for you, as a journalist, to spend a weekend learning with more than 20 of the country's best coaches, writers, teachers and editors.

Three different tracks of **hands-on sessions** with **classroom exercises** and **tip sheets** to take home allow you to design a program that meets your needs.

Let our presenters share with you secrets of the trade, how they got where they are and new techniques you can use to make your work stand out. Learn the right words for every situation and the best methods of informing your readers. Ask questions. Seek the advice of pros and colleagues. Come prepared to learn more about your craft and you won't be disappointed.



## Program Highlights

Take in sessions covering such topics as:

- ▶ **Acquiring Information**
- ▶ **Descriptive Writing Techniques**
- ▶ **What Pros Forget**
- ▶ **Column Writing**
- ▶ **Getting Over Writer's Block**
- ▶ **Freelancing**
- ▶ **Learning from Your Readers**
- ▶ **Tackling that First Big Writing Project**
- ▶ **Aggressive Interviewing Tactics for Journalists**
- ▶ **Sharpening the Focus: Story Organization**

**Discount Travel Information**

*USAir* has been selected as the official airline of SPJ's 1996 workshops. To make airline reservations and receive a **5% SPJ meeting discount**, you or your travel agent should call **(800) 334-8644** and refer to **Gold File #79660192**.

**Directions to the Radisson Summit Hill**

**From Interstate 40:** Take I-40 to Exit 388-A James White Parkway. Stay in the right lane and take the first exit to right "Summit Hill Drive." Keep to the right through "yield" sign. Go straight through three traffic lights and the Radisson will be on the right. The hotel is visible from the interstate.

**From the airport:** Leaving McGee-Tyson Airport, take the 129N split to Knoxville. Approximately 15 miles on 129 (Alcoa Highway) you will see a sign for Interstate 40. Take the 40 East exit and follow the directions from Interstate 40.

**If you aspire to be a top-notch writer, get a head start at the SPJ Writers Workshop.**

## Saturday, November 9

8am-9am

### Registration

9am-9:15am

### Welcome

Georgiana Vines, editor,  
*El Paso Herald Post*, El Paso, Texas

9:15am-10:15am

### Opening Session

10:30am-11:45am

### Story Organization: Putting It All Together

Griff Singer, Department of Journalism,  
University of Texas at Austin, Austin, Texas

### The Power of Observation

Dave Garlock, Department of Journalism,  
University of Texas at Austin, Austin, Texas

### The Alternative Press

John Yarmuth, editor,  
*Louisville Eccentric Observer*, Louisville, Kentucky

### New Markets, New Challenges: Writing for Electronic Media

Jack Lail, *Knoxville News-Sentinel*, Knoxville, Tennessee

11:45am-1:15pm

### Lunch (on your own)

1:15pm-2:30pm

### What Pros Forget

Bob Knight, re-write editor,  
City News Bureau of Chicago, Oak Park, Illinois

### Aggressive Interviewing Tactics for Journalists

Griff Singer and Dave Garlock, Department of  
Journalism, University of Texas at Austin, Austin, Texas

### Are We Serving Our Readers?

Georgiana Vines, editor,  
*El Paso Herald-Post*, El Paso, Texas

### Business Reporting Basics

Reginald Stuart, assistant news editor,  
Knight-Ridder, Washington, D.C.

2:45pm-4pm

### Lessons for the Humor-Impaired

Mike Harden, *Columbus Dispatch*,  
nationally syndicated columnist, Columbus, Ohio

### 10 Commandments of Good Newspaper Writing

Harry Levins, senior writer and writing coach,  
*St. Louis Post-Dispatch*, St. Louis, Missouri

### Tackling That First Big Writing Project

Gordon "Mac" McKerral, associate professor, Hall  
School of Journalism, Troy State University, Troy, Alabama

4:15pm-5:30pm

### Reporter/Editor Relationships: Making Them Work

Wendy Myers, editor-in-chief,  
*Veterinary Economics* magazine, Kansas City, Missouri

### Covering the Courts

Sherry Alexander, assistant professor,  
Loyola University, New Orleans, Louisiana

### Covering Diverse Communities

Dhyana Ziegler, Department of Broadcasting,  
University of Tennessee, Knoxville, Tennessee

## Sunday, November 10

9am-10:15am

### Fact-Finding Through Uncle Sam

Neil Tillman, U.S. Bureau of the Census, Washington, D.C.

### Weeding Wordiness Out of Your Writing

Wendy Myers, editor-in-chief,  
*Veterinary Economics* magazine, Kansas City, Missouri

### The Basics of Broadcast Writing

Jennifer Mikell Barthlow, senior political writer,  
CNN, Atlanta, Georgia

10:30am-11:45am

### Construction Sites and Demolition Derbies: Getting Over Writers Block

Frazier Smith, wire editor and freelance writing coach,  
*Dayton Daily News*, Dayton, Ohio

### Feature Articles: Less Pain, More Gain

Loring Leifer, freelance writer, Shawnee Mission, Kansas

### Freelancers' Rights in the Electronic Age

Diane Stein, National Writers Union, New York, New York

11:30am-12:30pm

### Good Writing Techniques

Kelly Leiter, Dean Emeritus, College of Communications,  
University of Tennessee, and freelance writing coach for the  
*Nashville Banner*, Knoxville, Tennessee

# Knoxville Writers Workshop Registration Form

Please write name as you wish it to appear on name badge.

NAME

ORGANIZATION

ADDRESS

CITY / STATE / ZIP

DAYTIME PHONE NUMBER

## Individuals

- Writers Workshop SPJ Member Rate (before Oct. 31) ..... \$79  
 Writers Workshop Non-member Rate (before Oct. 31) ..... \$89  
 Writers Workshop On-Site or after Oct. 31 ..... \$99

## Special Group Rate

Register four or more people from your organization at the same time for just \$79 each. Registrations and payment must be received by Oct. 31, 1996. Be sure to include the names of all attendees when registering your group.

## Join SPJ Today

- \$34 Students  \$68 Professionals

## Payment Information

- Check or money order made out to SPJ included

- Charge registration(s) to my credit card

If paying by credit card, please include the following:

- VISA  MASTERCARD  AMERICAN EXPRESS

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CREDIT CARD NUMBER

SIGNATURE

CARD EXPIRATION DATE

## Send Materials To:

by mail: SPJ Knoxville Writers Workshop Registration  
16 South Jackson Street • Greencastle, IN 46135-1514

by fax: (317) 653-4631

by phone: (317) 653-3333 please have credit card information ready

**Cancellation Policy:** All refund requests must be made in writing. No requests made by telephone will be accepted. Requests postmarked by Oct. 31, 1996, will be honored in full. Requests made after Oct. 31 will have a \$15 processing fee deducted. No refunds will be made after Nov. 6.

**Photo release:** We occasionally use photographs of conference participants in our promotional material. By virtue of your attendance, you agree to usage of your likeness in such material. Confirmations will not be mailed on registrations received after Oct. 31.

## Radisson Summit Hill Hotel Reservations

401 Summit Hill Drive • Knoxville, Tennessee 37902

For hotel reservations, call the hotel directly at (423) 522-2600 or mail this form to the hotel at the above address. Reservations must be made by October 18, 1996. After this date, reservations are subject to availability. Check-out time is noon. Rooms may not be available for check-in until 3 p.m.

NAME ORGANIZATION

ADDRESS CITY / STATE / ZIP

DAYTIME PHONE NUMBER

## Room Rates

\$69 single/double

Rates do not include applicable taxes. Rooms are held until 6:00 p.m. To guarantee your reservations past 6:00 p.m., use credit card for payment or include one night's deposit. Indicated credit card information authorizes billing for one night's room and tax in the event that you do not arrive or cancel 48 hours in advance of arrival date.

## Arrival/Departure

ARRIVAL DATE

CHECK-OUT DATE

SHARING ROOM WITH

# OF ROOMS NEEDED

## Room Type

- Single (\$69)  Double (\$69)  
 Smoking  Non-Smoking

## Payment Information

- Check/money order made out to the RADISSON included

- Charge registration(s) to my credit card

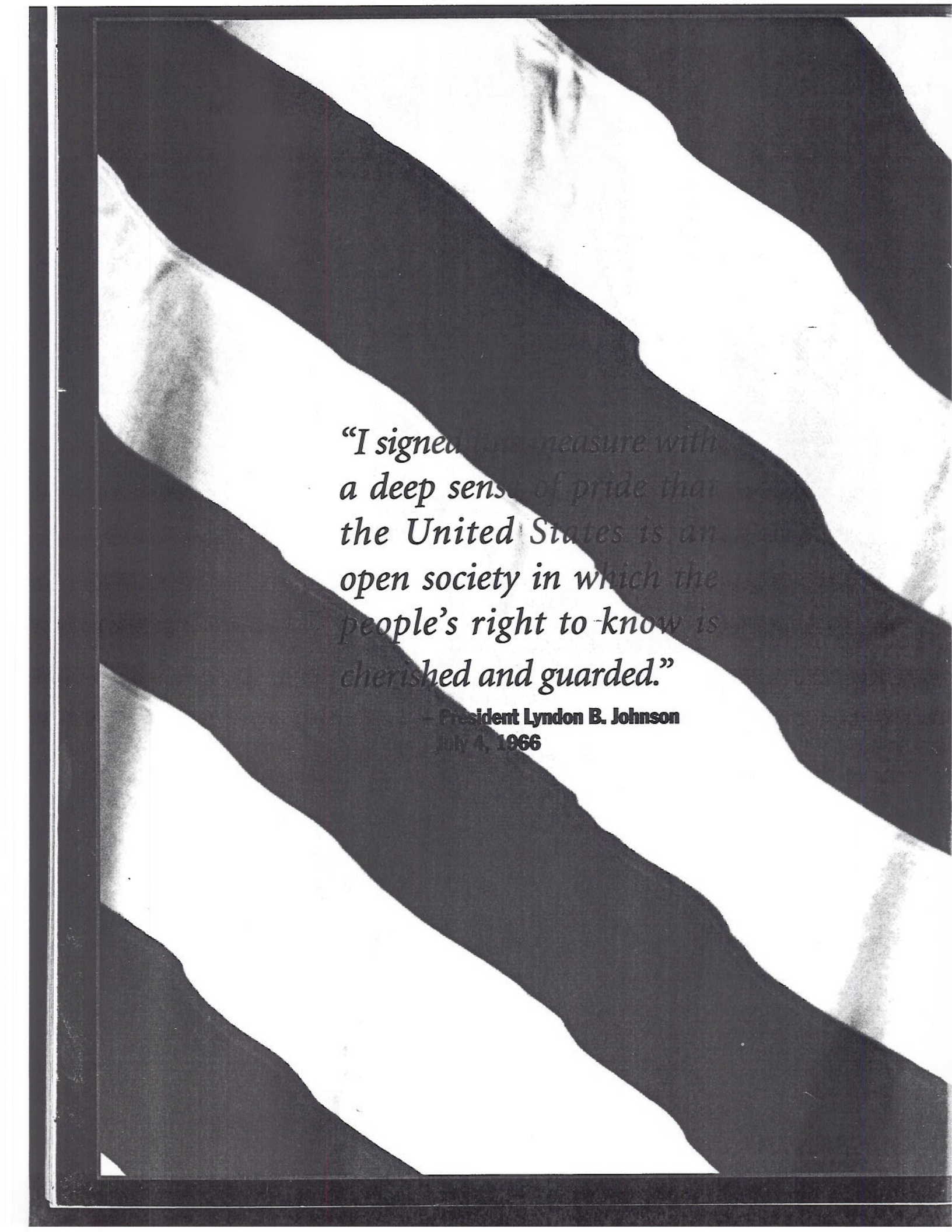
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*“I signed this measure with  
a deep sense of pride that  
the United States is an  
open society in which the  
people’s right to know is  
cherished and guarded.”*

**— President Lyndon B. Johnson**  
**JULY 4, 1966**

cies often try to hide behind exemptions for records and meetings. Funded with taxpayer money, government attorneys often are willing to litigate in the hope of establishing a precedent of closure.

Meanwhile, citizens seeking access to government meetings and records can take civil action against the governmental agency or—in 21 states—turn to state or local officials charged with enforcing the access laws.

In the vast majority of cases, enforcement may not be an option. Research conducted by the authors of an open meetings enforcement bill revealed that 67 percent of prosecutors across the nation charged with enforcing their state's open meetings law never had initiated an investigation of an open meetings violation. Investigations rarely resulted in prosecution: Less than 10 percent of prosecutors said they had conducted an open meetings prosecution in the previous year.

The survey of more than 1,000 state and local prosecutors in 21 states supports what access advocates have said for years: Prosecutors rarely, if ever, enforce state open meetings laws. Given the comparative complexity of state public records laws—with their myriad definitions and exemptions—fighting access battles for records could be an even tougher proposition.

"I'm surprised you found that high a percentage [of prosecutions]," said West Virginia deputy attorney general Dawn Warfield, the state's point person on freedom of information. "I'm not aware of a single access law prosecution ever in West Virginia."

Warfield said West Virginia's statutory requirement that violations be "willful and knowing" makes it difficult, if not impossible, for local prosecutors to go after access law violators. "The willful and knowing language means that a public official had to know that they were violating the law and then do it anyway," Warfield said. "If the agency's counsel tells them it is OK to close the meeting or deny access to the record, they have a solid defense."

West Virginia's tough requirements for determining intent are reflected in a number of state access laws. Pennsylvania's open meetings law requires prosecutors to prove that public officials met with the intention of violating the law, while Georgia, Texas, Oklahoma, and others also require some evidence of intent to break the law.

Enforcement activity may also be a matter of which agency is responsible for enforcing the law. "I wish we [the West Vir-

ginia Attorney General's office] had enforcement responsibility," said Warfield. "Local prosecutors are not going to go after their political allies, and many of them face real conflicts of interest if they did."

In Texas, state law allows the attorney general to intervene in open meetings cases only when requested by local prosecutors. But the state has seen several cases make headlines when local prosecutors refused to seek assistance from the attorney general's office despite obvious political conflicts. Nancy Monson, executive director of the Texas Freedom of Information Foundation, said local enforcement of the open meetings law is sporadic at best. "It's a purely political process, and that's unfortunate," she said. "When we do see enforcement, it's often a matter of political likes and dislikes, and not the even-handed enforcement that we need."

In other states, enforcement is a purely civil matter—citizens must challenge alleged access violations in court or suffer silently. Bob Johnson, executive director of the New Mexico Foundation for Open Government, said his state's lack of criminal or civil penalties make enforcement "an uphill battle we fight every day."

Despite an active and well-organized freedom of information foundation, Johnson said there is little that can be done when a governmental agency decides to close its doors. "The open meetings law has no deterrent, and that's the biggest problem," Johnson said. "Our complaints go to the attorney general's civil unit, which writes a letter to the agency threatening future action, but there's nothing they can do. For this reason, it never ends. Our government officials are always squabbling about public decision-making, trying to get behind closed doors, and all we can do is complain."

John Kuglin, Associated Press bureau chief in Helena, Montana, and chair of Montana's FOI Hotline, said the state's lack of penalties for access violations places a premium on the ability to negotiate, rather than mandate access to records and meetings despite clear statutory directives.

"There are no penalties in Montana, and the attorney general has no statutory authority either, so we must fight the fight ourselves," Kuglin said. "We have made real progress in recent years because we realized that while we must be unafraid of litigation, we must also be willing to work with government agencies and form relationships."

Kuglin said that while the law is clear on

most issues regarding public access, governmental agencies are aware that they face no legal penalties for violations. "That changes the role of the information seeker in a way, because they must be creative and seek informal rulings that allow them access to records and meetings."

Kuglin described a conference with the attorney general's office in which the Montana foundation received an informal ruling that allowed reporters access to driver's license data. "That issue could have become a real legal battle, but we worked within the system and got what we wanted," he said. "That won't work every time, but we have little choice."

Finally, the high cost of litigation in many states where access laws do not provide for recovery of court costs and attorneys fees for victorious plaintiffs discourage many smaller media organizations and private citizens from enforcing the laws through civil lawsuits. As the Lett case in Texas shows, fighting City Hall can be an expensive, time-consuming process. Without statutory assurances that plaintiffs unlawfully denied access to meetings or records will recover the cost of litigation, few private citizens, neighborhood groups, or small public interest organizations are willing to risk thousands of dollars to advance the cause of openness.

"The citizen gets trampled in the process, because they spend their own money to hire a lawyer to represent them against a wave of governmental attorneys who are spending the citizen's money again to represent that citizen's government," Monson said. "At some point in the process, our governmental attorneys simply say 'sue us,' and they know that more often than not, the complaint will go away."

As a result, access law increasingly has become the province of major media organizations with deep pockets. To many prosecutors, access has become a media issue, akin to shield laws and other "press laws." This information is illustrated by one of the survey's findings: While prosecutors reported that private citizens make far more complaints about open government than the news media, more than half agree with the statement that only the news media is concerned about open meetings.

"We must make a concerted effort to demonstrate to the public that access issues are not press issues, but democratic issues," Monson said, "and we must fight the notion that government attorneys represent

# How to pursue your request

In a democratic utopia, citizens would gain access to government records and meetings simply by asking smiling clerks, friendly school board members, and compliant sheriff's deputies happy to foster participation by enlightened citizens.

Since we're stuck with reality, we asked several FOI veterans for tips on getting in to that long-discussed meeting about brewing personnel problems at City Hall or obtaining a copy of a school board audit report. After comparing FOI victories and setbacks, the experts agreed on these fundamentals to do and not to do:

**Do your homework.** First, know the law. Attend workshops, read the statutes, and ask questions. Concentrate first on how the process works in your state, and then familiarize yourself with possible exemptions to your state's law.

Second, understand the workings of the agency you are investigating. Identify the official responsible for the records or meeting involved, and make a contact in the records-keeping arm of the agency. By doing so, you can target your request—the more specific, the better the odds. A subcommittee title, a chairman's name, the date of a document or its identification number can help speed the request.

**Be firm—but polite.** Strong-arm tactics may work in Hollywood, but they won't impress court clerks, police public officers, or city managers, who have likely dealt with tougher types than you. "Remember that these folks are doing their job, just like you, and that they may not know the law as well as you assume they do," said Monson.

On the other hand, don't be a wimp, either. "Open records and meetings laws reflect a right demanded by the citizen, not a privilege extended by the legislature. You are not asking anyone for a favor—this is your right to know," said

Wiley. "Be professional, but make it clear you're not going away."

**Put it in writing.** A written request achieves several important goals: it serves as an official record of the request, should litigation follow; it gives the records custodian or meeting administrator something to take up the chain of command; in many states, it triggers statutory directives requiring an official government response to the request; and it establishes your professional stature. Handed a written request, a government employee on the front lines is more likely to recognize you as someone who knows the law—and how to use it.

**Be prepared to hear "no."** "From my vantage point, I'm always amazed to hear from people, including the press, who are so stunned that their request is denied that they miss all the important details," said Warfield. Most state laws require the agency to document denials, citing the appropriate exemption and explaining the appellate process. Still, Warfield said, "many people just give up when they hear the word 'no.'"

"That's what they're counting on," Warfield said. "In fact, many agencies use the initial denial as a test of the citizen's willpower."

**Get it on tape.** Warfield advises citizens and reporters alike to bring a tape recorder. "When you get to that clerk's desk, ask if they mind if you tape the transaction. We get a lot of accusations and denials, and that is one sure way to get the whole transaction on the record."

**Closed doors are news.** When the school board throws your education reporter out, remember they've also thrown out parents, teachers and other concerned citizens. "That's a story," Monson said. "We're sometimes afraid to cover issues that involve the media, but open

government is much larger than the media. Anytime the public is denied access to information in the Information Age, people want to know about it."

**Never, ever tell them "what you need it for."** In most states, there is no requirement that the citizen reveal a purpose for seeking access to records or meetings. Deception is unethical, but walking up to a clerk at your police substation and asking for the records of the chief's travel logs "for an investigative piece I'm working on, linking the chief to special interest groups" is unwise. Where possible, keep your request formal and your description of the story broad.

**Choose your battles carefully.** The legal cliché "bad facts make bad law" is true. Before litigating, carefully consider the precedent that could be established by a courtroom defeat. By waiting for a more clear-cut violation you could avoid putting a damaging decision on the books. "I've seen people get caught up in the emotion of the fight and not think about losing," Kuglin said. "You must remember that nothing is open and shut."

**If you talk the talk . . .** "If you tell a stubborn governmental agency that you'll sue them if they don't open up the process, you better mean it," Johnson said. "Once an agency knows that you're a threat and no action, they'll close doors and hide records again and again."

**Get involved.** Form coalitions, join freedom of information groups in your state, and work with others interested in preserving access to government. "Individually, we can do very little about access," Warfield said. "Working together, we can get the attention of government. Before hiring lawyers and going off to battle, we should at least try to make positive change." ■

government agencies. They represent the people, they are paid by the people, and for them to claim attorney-client privilege to hide from the very people they represent is infuriating."

Citizen enforcement of access laws is dif-

ficult at best. As agents of the public, as U.S. Supreme Court Justice Potter Stewart once described the news media, the responsibility for reform falls upon the working journalist.

"No one else is going to fight this fight,"

said Johnson. "The media has the resources and the ability, but you have to be willing to walk down the aisle once you've pleaded to fight."

The ball squarely is in the news media's court. ■

# FOI national report

## The pluses and minuses of the past year

Advocates for the free flow of information won some battles and lost others in the last year. Here is a round-up of activities listed by regions in the Society of Professional Journalists.

### Region 1

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont

#### CONNECTICUT

During the past legislative session in Connecticut, journalism and access groups headed off attempts to pass several restrictive laws, including one similar to the Federal Drivers' Privacy Act that would have restricted severely access to Motor Vehicles records. A proposed opt-out provision also didn't pass. The Connecticut Conference of Municipalities proposed a new law that was so restrictive the organization withdrew the bill after concern their image was suffering because of the measure. Other defeated measures include a provision that would have limited access to records on nurses with drug problems and a law proposed by Connecticut Innovations Inc. that would have expanded open records exemptions to include trade secret information as well as any information obtained by the company in general.

Source: Connecticut Freedom of Information Commission.

#### MAINE

In Maine, the *Bangor Daily News* sued to release final settlement documents in a University of Maine lawsuit over a professor's wrongful firing. The University hired an outside lawyer who claimed the documents as his property and therefore not public

record. After a lower court ruled in favor of the *Daily News*, the university appealed to the State Supreme Court. The Law Court said the documents were public record and must be disclosed. A similar case was filed by the *Kennebec Journal* with similar results.

Reporters and press groups were successful in persuading Maine's attorney general to withdraw legislation that effectively would have repealed a 1993 law allowing access to the attorney general's investigative files when a case was closed.

Despite initial opposition from Gov. Angus King, news media representatives were successful in adding ad hoc and policy-recommending committees to the right-to-know and open meetings laws. Under the new law, which took effect July 4, 1996, a advisory group appointed by the governor must meet the requirements of Maine's right to know law, unless the governor exempts the group through executive order. King first opposed the law, but after private meetings with reporters, in which he was reminded his position was not permanent, he dropped his opposition and signed the bill.

Source: State Sunshine Chair.

#### MASSACHUSETTS

A definite victory for cameras in the courtroom came in Massachusetts. In *Hearst Corporation v. Justices of the Superior Court*, a decision by the Supreme Judicial Court of Massachusetts in Boston reversed a lower court's ban on television and radio coverage of a trial involving the murder of a state trooper.

Source: The Reporters Committee for Freedom of the Press, *The News Media and the Law*, Spring 1996.

#### NEW JERSEY

Thanks to a state Supreme Court decision, New Jersey daily newspapers are entitled to obtain the complete death certificate of Timothy Wiltsey, a five-year-old boy whose body was found months after he disappeared in 1991. The Department of Health argued the information was confidential and should not be released. *The Home News* of East Brunswick said the records were a matter of public interest because foul play may have been involved.

Source: Reporters Committee for Freedom of the Press, *News Media Update*, July 1, 1996.

#### NEW YORK

New York access proponents received bad news from the U.S. Court of Appeals which, in a unanimous decision, set new guidelines for public access to judicial documents. The court specified that while there is a presumption of public access, it should be weighted according to how important or key the documents are in the litigation. The presumption then should be balanced with the privacy interests of those resisting disclosure and the possibility of endangering or impairing law enforcement or judicial efficiency. Applying the new test, the court held that the first part of a judicial report on an investigation into labor union corruption should not have been made public by the federal District Court and that the decision to release the second part of the report should be reconsidered.

The good news however came from New York City's 2nd U.S. Circuit Court of Appeals, which reversed a ruling by the federal District Court that had subpoenaed outtakes from a series of *Dateline NBC* interviews. The program aired a segment on infant deaths associated with baby

swings manufactured by Graco Children's Products Inc. Graco requested the outtakes as part of its defense in a wrongful death suit. The lower court held NBC in contempt for refusing to relinquish the videotapes and issued a \$5,000 fine for each day the network did not comply. The higher court, however, found Graco's defense did not rest critically on the NBC tapes and quashed the subpoena.

In *Marisol v. Guiliani*, New York federal District Court Judge Robert Ward applied a local rule allowing cameras in his court despite a recommendation from the Judicial Conference of the United States prohibiting cameras in federal District Courts.

Source: The Reporter's Committee for Freedom of the Press,

*The News Media and the Law*, Spring 1996.

#### PENNSYLVANIA

In a unanimous decision, a three judge panel in a federal court in Pennsylvania ruled the Communications Decency Act, which is part of the Telecommunications Reform Act of 1996, unconstitutional because it violates the First Amendment's free speech protection. "The Internet may be fairly regarded as a never-ending worldwide conversation. The government may not, through the CDA, interrupt that conversation. As the most participatory form of mass speech yet developed, the Internet deserves the highest protection from government intrusion. Just as the strength of the Internet is chaos, so the strength of our liberty depends upon the chaos and cacophony of the unfettered speech the First Amendment protects," the panel said.

Source: The Reporters Committee for Freedom of the Press,

*News Media Update*, June 17, 1996.

**+** In *Community College of Philadelphia v. Brown*, Pennsylvania's high court ruled that community colleges and their campus security departments do not perform an essential government function and are not subject to the state's Right to Know Act. The case stemmed from a request from the student newspaper, *The Student Vanguard*, concerning campus security information.

Source: *The Reporter's Committee for Freedom of the Press, The News Media and the Law, Spring 1996.*

**+** A Federal Magistrate in Pittsburgh found prison officials guilty of violating the civil rights of death row inmate Mumia Abu-Jamal after they denied him the right to be interviewed by the news media and opened private mail sent to him by his lawyers.

Source: *The Reporters Committee for Freedom of the Press, News Media Update, June 17, 1996.*

**+** In covering a car accident, WGAL-TV News crew interviewed a woman who was involved in the wreck and admitted to smoking marijuana the day before the crash. The station voluntarily turned over the broadcast story to the district attorney. A judge issued a search warrant to search and seize unaired footage from the interview. The warrant was vacated after another judge found it violated the federal Privacy Protection Act.

Source: *The Reporters Committee for Freedom of the Press, News Media Update, July 1, 1996.*

**RHODE ISLAND**

**+** A judge ordered the Providence, Rhode Island, police force to make public the names of all police officers who have been accused of brutality or excessive force. City officials say they will appeal.

Source: *The Freedom Forum, First Amendment Legal Watch, June 7, 1996.*

**VERMONT**

**+** In Vermont, changes in the law governing access to records included provisions to make information electronically

accessible and established charges for copies of records at actual cost. Source: *State Sunshine Chair.*

**Region 2**

*Delaware, Maryland, North Carolina, Virginia, Washington D.C.*

**MARYLAND**

**+** In Maryland, a proposed opt-out provision died in the Senate because time ran out. On a good note—veggie libel legislation was killed.

Source: *Delaware, Maryland, Washington, D.C. Press Association.*

**+** A defendant charged with five murders, refused a plea bargain agreement saying he was upset by heavy news coverage. As a result, the Montgomery County Circuit Court Judge prohibited visual news media coverage of the defendant both inside the court and in the public areas around the courthouse. After protests from area news media organizations, the judge said he didn't intend his order to be applied as broadly as it was written and that the order would not extend to the public areas previously designated off-limits.

**+** Maryland's attorney general found the Open Meetings Act does not apply to e-mail communications among members of a public body unless a quorum of a public body is engaged in a simultaneous exchange of e-mail on a matter of public business. It also found that an e-mail message sent between government officials "surely falls within [the] definition" of public records under the Public Information Act.

Source: *The Reporters Committee for Freedom of the Press, News Media Update, July 1, 1996.*

**NORTH CAROLINA**

**+** As of October 1, 1995, Public Records Law of North Carolina was significantly amended. The changes were procedural on such issues as timing and cost. The new law added a preamble that says records are public property and therefore should be obtainable at a minimal cost as

promptly as possible. Furthermore, no one can be required to disclose the reason for a request. And, comingling of confidential and public information is not reason enough for denial.

**+** A new provision also is explicit that a public agency cannot acquire a new electronic system that would make its public records inaccessible and incompatible with the systems of other agencies. The provision also requires the agencies to develop an index of information held in their systems and define what constitutes a computer database.

**+** The law also requires charges for documents or records to be actual cost without any overhead charges. The new law parallels the open meetings law, which calls for immediate attention and reimbursement of court costs if Public Records Law is violated.

Source: *North Carolina Press Association.*

**VIRGINIA**

**+** New changes revamping some of Virginia's FOI policies took effect July 1, 1996.

A new requirement that the state government must keep indices of computer-stored information gives the public a chance to go into an agency and look through records to see what information that particular agency stores. The Public Procurement Act states that all state agencies buying hardware or software must keep access in mind. When an agency buys any new equipment, it must make sure it is compatible with other government systems and it must ensure public access to that information in the same manner as all other agencies provide access.

**+** A new law makes publicly accessible the records of juveniles 14 and older who are tried as adults.

**+** A bill that would have banned television coverage during all criminal trials was defeated.

Source: *Virginia Press Association.*

**+** The Virginia Senate killed a bill that would have guaranteed reporter access to state prisoners and eliminated the requirement that all interviews first must be approved by the prison

director.

Source: *The Reporters Committee for Freedom of the Press, The News Media and the Law, Spring 1996.*

**WASHINGTON, D.C.**

**+** The U.S. Court of Appeals in Washington, D.C. found that trustees of a fund set up to defray personal legal fees related expenses incurred by President and Mrs. Clinton assuming office do not comply with an advisory committee subject to the openness requirements of the Federal Advisory Committee Act.

Source: *The Reporters Committee for Freedom of the Press, The News Media and the Law, Spring 1996.*

**+** In *Denver Educational Telecommunications Consortium v. FCC*, the Supreme Court voted in favor of cable system operators saying they cannot be required to segregate and block all indecent programming.

**+** The U.S. Senate killed S. 1219 that would have required broadcasters to provide free air time for political candidates and reduced unit charges for political ads.

**+** A bill introduced by Carolyn Maloney (D-N.Y.) demands more federal agency accountability to Congress on responsiveness to Freedom of Information Act requests. The bill would require agencies to tally and present the total number of requests received as well as the number of responses made. FOIA now requires agencies to report the number of denials made yearly.

Source: *The Reporters Committee for Freedom of the Press, News Media Update, July 1, 1996.*

**Region 3**

*Alabama, Florida, Georgia, South Carolina*

**ALABAMA**

**+** The Alabama legislature passed a bill that includes a measure to make confidential the names and addresses of victims of



crime. This provision has been interpreted differently and has caused some law enforcement officials to exclude all information relating to these types of criminal incidents.

Source: *Alabama Press Association*.

**FLORIDA**

**+** In Florida, the government is on-line! The Florida Division of Elections now has a home page on the Internet for electronic access to information. Accessible information includes campaign financial reports on political candidates and parties. The state Legislature also has a home page featuring current information on the legislative session: <<http://www.scri.fsu.edu/fla-leg/>>. Another site provides information about government agencies courts and public access issues: <<http://www.dos.state.fl.us/fgils/>>.

**+** In Dade City, Florida, a judge ruled that the records of a juvenile charged as an adult in the murder of a 71-year-old woman should be released and that the law protecting juvenile records did not apply to the case. Source: *The Breckner Report*, May 1996.

**+** **-** In 1995, the Florida Legislature approved the Electronic Records Act, ensuring access to public records, regardless of whether the information is on paper or in a computer database. The law allows agencies to charge reasonable fees for electronic access and includes data-processing software and electronic mail in the definition of a public record. Unfortunately, exemptions have been added to the Sunshine Law including protection of the Social Security numbers of all current and former government employees, and a five-year protection of the names, addresses and telephone numbers of victims of crimes such as stalking and domestic abuse. Court records relating to sex-crime victims have been sealed. Clerks of the courts can charge up to \$1 a page for copies of public records.

On a good note, the Florida Legislature considered but failed to pass the Safety and Privacy for Jurors Act that would have exempted information to identify jurors in criminal trials.

Source: *State Sunshine Chair*.

**-** In *Gold Coast Publications v. Florida*, the 4th District Court of Appeals upheld a lower court's refusal to quash a subpoena served on journalist Jeffrey Harrell. Harrell was asked by prosecutors to testify in a murder trial in which the defendant had been quoted in an article written by Harrell for *XS Magazine* in January 1995. The court found Florida's "qualified journalist privilege only protects a journalist's confidential news sources," and the subpoena in dispute did not require the journalist to identify a confidential source because the quotes had been attributed directly.

**GEORGIA**

**+** In Georgia, the Supreme Court ruled a trial court may not close its doors to the news media because of the possibility that news coverage might impede the defendant's right to a fair trial. The Rockdale County Superior Court in Conyers closed the capital murder proceedings of Marvin Earl Turner to the press and public. Turner is one of three men accused of torturing and shooting a grocery clerk in August 1994.

**-** In the Georgia legislature, HB 1122 solidified standards for state judges determining whether television cameras should be allowed in their courtrooms. The bill sets out the nature of the proceeding, the consent of parties and witnesses, the impact upon the integrity and dignity of the court, and other issues in making the decision.

Source: *The Reporters Committee for Freedom of the Press*,

*The News Media & the Law*, Spring, 1996.

**SOUTH CAROLINA**

**+** In South Carolina, news media groups were successful in passing an opt-out provision for DMV records. Also, the news media now has access to trials of juveniles being tried as adults. The news media also may publish the juvenile's name.

Source: *South Carolina Press Association*.

**Region 4**

*Michigan, Ohio, West Virginia*

**MICHIGAN**

**-** News media groups in Michigan have been working to steer off attempts by the legislature to exempt e-mail from the Freedom of Information Act. No action has been taken on the provision.

**+** Another bill being hammered out would "enhance access," or provide greater opportunity to obtain judicial and legislative information electronically.

**+** State DMV records remain open, although last year the legislature approved a measure—aligned with proposed Federal Regulations—restricting DMV records. However, the Governor vetoed the law because it wasn't restrictive enough.

Source: *Michigan Press Association*.

**+** Mug shots of defendants who are charged with crimes and have appeared in open court are not private and not exempt under the Freedom of Information Act, the U.S. Court of Appeals in Cincinnati ruled. The court said the public's interest in learning about governmental arrests could outweigh the defendant's privacy interests. As a result, the court ruled the U.S. Marshals Service must provide the Detroit Free Press with the photos of eight defendants.

Source: *The Reporters Committee for Freedom of the Press*, *The News Media and the Law*, Winter 1996; *Editor and Publisher*, February 17, 1996.

**OHIO**

**+** The Ohio Supreme Court ordered the City of Cleveland to pay attorney's fees to The Plain Dealer and ruled for the newspaper that information on the identities and backgrounds of candidates for the position of chief of police constitutes open records. This was an important victory over local mayors who were trying to bar access to some city records.

**+** In another opinion the Supreme Court ruled for

Cincinnati newspapers that 911 tapes were open records, and therefore, the newspapers enjoyed unconditional and immediate rights to these tapes.

**+** In June the governor signed into law a bill (HB353) keeping motor vehicle records open unless motorists indicated a checkoff to close the records. The legislation was in response to the federal Boxer-Moran Amendment, which would close automatically motor vehicles records unless states made other provisions.

**-** The Miami (Ohio) University student newspaper filed suit against the university to gain access to student disciplinary records. The university's disciplinary board hears cases including crimes such as rape, assault, and arson. The university has maintained that releasing such records would be a violation of the federal Family Education Rights and Privacy Act. Disciplinary records, the newspaper contends, are not a part of a student's educational record.

Source: *State Sunshine Chair*.

**-** Three Ottawa County newspapers published the name of a juvenile defendant in criminal proceedings after being ordered by a judge not to disclose the information. The publication was the result of a misunderstanding: The judge issued an alternative writ the newspapers interpreted as authorizing publication but the judge disagreed, saying his order did not overturn the gag order. In *News-Herald v. Ottawa County Court*, the newspapers argued that because the judge allowed the news media in the proceedings, but didn't allow disclosure, he was exercising prior restraint.

Source: *The Reporters Committee for Freedom of the Press*, *News Media Update*, July 15, 1996.

**WEST VIRGINIA**

**+** The West Virginia state Supreme Court, in a decision over a Fayette County school consolidation case, said that as long as public business is being discussed, meetings cannot be closed. The suit was filed by parents who said the school board violated open meetings procedures

when four of the five board members met in private with the county superintendent and other county school officials for two hours the day before a vote. The court found that a quorum of school board members cannot get together to gather, review or discuss business unless the meeting is public.

**+** A bill that would toughen open meetings laws was passed in the House and tabled in the Senate and will be heard in the Legislature's Interim meetings.

Source: *State Sunshine Chair*.

## Region 5

Illinois, Indiana, Kentucky

### ILLINOIS

**+** Media groups in Illinois were successful in delaying adoption of a state policy prohibiting face-to-face interviews with death row inmates. The current regulation allows face-to-face interviews at the discretion of the prison director.

Source: *The Reporters Committee for Freedom of the Press, The News Media & the Law, Spring 1996*.

### INDIANA

**+** Ameritech, an Indiana communications company, has proposed providing electronic access to various government documents for a fee. There is concern about whether this would increase or decrease the availability and accessibility because of the price charged by the firm. The company's proposal will be heard this fall by the legislature.

Source: *Hoosier State Press Association*.

## Region 6

Minnesota, North Dakota, South Dakota, Wisconsin

### WISCONSIN

**-** In Wisconsin, the high court has sent back to the circuit courts a decision allowing for a faster response on violations of open records and meetings laws. There is a tenden-

cy for municipalities to fight every challenge to open records and meetings violations to try to discourage challenges because of the time and cost. Under current regulations, it can take up to six months to have any action taken against an alleged violation of an open meetings law.

Source: *State Sunshine Chair*.

## Region 7

Iowa, Kansas, Missouri, Nebraska

### MISSOURI

**+** Pensions paid to two former Missouri governors and other officials must be disclosed to the *St. Louis Post-Dispatch*, a Missouri state appeals court ordered in June 1996. The controversy in *Pulitzer Publishing Co. v. Missouri State Employees' Retirement System* arose when a *Post-Dispatch* reporter asked the Missouri State Employees' Retirement System (MOSERS) to disclose the amount of pension payments, length of service, salary history and dates of pension payments made to former Governors Warren Hearnes and Christopher "Kit" Bond and two former Speakers of the House and Senate Presidents Pro Tem. A regulation prohibited such disclosures, but the appellate court ruled the records were open under the public records law. Because the regulation conflicted with the law, it was ruled invalid.

Source: *The Reporters Committee for Freedom of the Press, News Media Update, July 15, 1996*.

**+** Missouri Attorney General Jeremiah Nixon issued an opinion letter in September 1995 stating that cameras must be allowed to stay in city council meetings.

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law, Winter 1996*.

**-** The 8th Circuit Court of Appeals in *In re: Kansas City Star Company* held in January 1996 that the Missouri Sunshine Law does not prevent a state organization from appearing before a federal governmental body in closed session. The case involved the creation of the Desegregation

Monitoring Committee (DMC) by the federal District Court in 1986. The DMC was to monitor the court's school desegregation plan. The appellate court noted that the DMC was created by a federal court and thus, as a federal entity, did not fall under the act. The court did, however, remand the case back to the District Court to ensure that the power of the DMC was strictly monitored.

Source: *The Reporters Committee for Freedom of the Press,*

*The News Media & The Law, Winter 1996*.

## Region 8

Oklahoma, Texas

### TEXAS

**+** The past legislative session in Texas saw a complete revision of access laws. Now, public records are accessible regardless of their medium, and the new laws, formerly termed the Texas Open Records Act, are now the Texas Public Information Act. All public information held in a government agency is accessible by the public, including computerized information and tapes.

Source: *FOI Foundation of Texas*.

**-** In April, the U.S. Supreme Court declined to consider an appeal by a Houston television reporter who claimed a First Amendment privilege shielded him from having to divulge his confidential source in a libel case. The reporter, Wayne Dolcefino of KTRK News, continued to refuse to testify at a subsequent hearing in mid-April. Having exhausted all of his state appeals, Dolcefino may be held in contempt of court and face jail-time, a fine or both if he continues to refuse to testify.

Source: *The Reporters Committee for Freedom of the Press, The News Media and the Law, Spring 1996*.

## Region 9

Colorado, New Mexico, Utah, Wyoming

### COLORADO

**+** Cameras in the courtroom have become prominent in the Oklahoma City bombing trial of Timothy McVeigh. Terry Nichols in the federal District Court in Colorado. Congress passed a new law that required closed-circuit television coverage of all federal trials moved more than 350 miles from the original venue. Denver is 550 miles from Oklahoma City. Nichols' attorney maintained in June 1996 that Congress lacked the authority to attach such a resolution onto the anti-terrorism bill that was signed into law. McVeigh's attorney argued that the coverage would violate client's rights to due process and a fair trial because it would prevent the court from making a decision and therefore from protecting those rights. She also argued that cameras could influence jurors and witnesses and hamper McVeigh's ability to consult with his attorneys. Federal District Court Judge Richard Matsch decided in July 1996 that it was unconstitutional for Congress to order the broadcast. Judge Matsch indicated that he would narrowly interpret the new law and keep a close watch over the broadcast, allowing just one camera to be tucked into the wall. The jurors would have a kill switch and jurors would not be shown.

Source: *The Reporters Committee for Freedom of the Press, News Media Update, June 1996; Legal Times, June 22, 1996*.

### UTAH

**+** A Utah state judge ruled in November 1995 that law enforcement officials must release an audiotape of a call even though officials believe it was "too graphic." The tape related to the murder of M. Marchant and Kirt Swann, who were killed in Marchant's home by her estranged husband. Guns could be heard in the background during one of the calls. The law enforcement officials argued they had a duty to protect Marchant's five-year-old daughter.

ter, who possibly could hear the tapes on television. In *Fox Television Stations, Inc. v. Glenn Clary*, the court ordered the release of the tapes to Fox Television (Channel 13) after finding that they were public record and that none of the exceptions were applicable. The station then filed a motion to recover its legal fees, as the GRAMA law requires government entities that restrict access to records later found to be public to pay reasonable legal fees. In a negotiated settlement, the county government agreed to pay Fox Television more than \$27,000.

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law, Spring 1996.*

☐ The Utah Court of Appeals has barred the news media from juvenile court proceedings involving defendants under the age of 14.

Source: *The Freedom Forum, First Amendment Legal Watch, May 6, 1996.*

☑ The Utah Senate sought to have an open meetings lawsuit dismissed by Third District Judge J. Dennis Frederick. The ACLU accused the senators of violating the open meetings law when they secretly met in January to discuss gay student clubs in public schools.

Source: *The Freedom Forum, First Amendment Legal Watch, June 24, 1996.*

**WYOMING**

☑ The Wyoming Supreme Court affirmed a lower court's ruling that the names and addresses of persons employed as private contractors for the Wyoming Department of Transportation must be disclosed. In *Wyoming Dep't of Transportation v. Int'l Union of Operating Engineers Local 800*, the union sought copies of the federal forms submitted to the Department of Transportation. The department requires a wage report identifying the number of workers employed on the project. The court concluded that the privacy concerns of the named individuals were outweighed by the public interest in "what the government is up to."

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law,*

Winter 1996.

☑ Wyoming courts have been awarding summary judgment in open records laws. A court recently gave summary judgment in a case where a hospital didn't want to disclose the job offer it had made to a doctor.

Source: *State Sunshine Chair.*

**Region 10**

*Alaska, Idaho, Montana, Oregon, Washington*

**MONTANA**

☐ A judge in Boulder, Montana, barred the news media from a pretrial hearing in a case involving a high school teacher accused of statutory rape. Other members of the public were not expelled or barred from the hearing.

Source: *The Freedom Forum, First Amendment Legal Watch, June 17, 1996*

☐ ☑ District Judge Thomas Honzel of Helena ruled in favor of two defense motions against the plaintiffs on the question of forcing open the party caucuses, declaring that the Republican and Democratic caucuses did not constitute a legal entity for the purposes of a lawsuit. He did, however, indicate that the news media should be allowed into the pre-session gatherings of House and Senate party caucuses, at which time the legislative leadership is chosen.

Source: *State Sunshine Chair.*

**Region 11**

*Arizona, California, Hawaii, Nevada*

**ARIZONA**

☐ In February 1996, an appeals court in Arizona upheld the constitutionality of a state law that allows the county recorder's office to charge newspapers ten cents for each voter's name copied from the voter's registration lists. A reporter from the Arizona Republic in July 1992 had requested the voter registration list which consisted of 1,140,000 names. The county recorder's office charged her

\$114,000 for the list. The newspaper tried to negotiate for a cheaper rate but the county refused the offer. The trial court found that the records were public and open to inspection, but still granted the state's motion for summary judgment. In *Phoenix Newspapers v. Arizona*, the appellate court found that the fee provision was supported by a legitimate state interest. The court found that the charge was necessary because labor costs could be quite high and that dissemination of the list, even for non-commercial purposes, could lead to unwanted intrusions into voters' privacy. The decision has been appealed to the Arizona Supreme Court.

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law, Spring 1996*

☐ In February 1996 the Arizona Gaming Agency denied a request by several Arizona newspapers for the audits performed on all the Indian gaming operations in Arizona in the last year. The department refused the requests on the grounds that gaming contracts do not allow such information to be made public by the state without the tribe's agreement or a court order. The newspapers believed the reports to be under the open records law.

In response, the Arizona Senate introduced a bill, at the request of a southern Arizona tribe that runs a casino near Tucson, that would make the records off-limits to the public.

Source: *Editor & Publisher, February 24, 1996.*

☑ Media lawyers for the most part have been successful in Arizona in battling efforts by the governor's attorneys to prevent public access to his depositions and financial documents relating to his bankruptcy and criminal indictments. Bankruptcy Court Judge George Nielson rejected all attempts to close the records except for one involving portions of the governor's wife's deposition.

Source: *State Sunshine Chair.*

☐ There is an access battle brewing in the Viper Militia case in Arizona. Federal prosecutors have attempted to limit public access to some of the evidence they say they have against a dozen Phoenix residents who al-

legedly were making preparations to blow up a number of government buildings. Over objections from the U.S. Attorney, District Court Judge Earl Carroll allowed the release of a home videotape showing militia members detonating fertilizer bombs in the desert. From its pretrial evidence list, prosecutors withdrew a second video that shows militia members surveying several Phoenix federal buildings while the narrator describes how best to destroy the buildings. That video is subject to discovery, but prosecutors are seeking a court order to prevent defense attorneys from showing the tape to anyone.

Source: *State Sunshine Chair.*

☑ The Arizona legislature in 1996 produced several bills affecting open records and meetings laws. The bills:

■ Subject charter schools to open meetings and open records laws.

■ Allow state-licensed real estate agents and brokers to request that their home addresses and telephone numbers be withheld from Insurance Department records.

■ Allow persons accused of child abuse or neglect to request a public hearing—instead of the current closed hearings.

Source: *State Sunshine Chair.*

**CALIFORNIA**

☐ Access to executions in California has resulted in a lawsuit after the news media were permitted to watch only the final minutes of the February 1996 execution by lethal injection of William Bonin in San Quentin prison. They were supposed to be allowed to watch the entire lethal injection procedure. Prison officials said that the execution had been delayed several minutes because of a problem pushing the needle into Bonin's arm. The news media complained that they saw only Bonin lying almost motionless on a gurney. A Department of Corrections spokesperson said that while they were aware of the news media's needs, they also had to protect the identities of personnel involved in the execution.

Source: *Editor & Publisher, May 4, 1996.*

☑ ☐ In March 1996, the Judicial Conference of the United

States—the principal policy-making body for the federal court system—approved a resolution giving federal appellate courts the authority to decide whether to permit cameras in their courts. In response, the Ninth Circuit Court of Appeals in San Francisco decided it would allow coverage of civil matters and administrative agency proceedings. Coverage of criminal or extradition proceedings will not be allowed except for appeals of post-conviction habeas corpus suits, which include death-penalty appeals. While the Ninth Circuit decision is a victory for camera access in federal courts, the court allowed some restrictions. The guidelines require a seven-day advance notice by media interested in a particular session and the appellate panel can refuse, limit, or terminate coverage at its discretion. The Ninth Circuit has jurisdiction over appeals from the states of California, Nevada, Arizona, Oregon, Washington, Idaho, Montana, Alaska, and Hawaii.

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law, Spring 1996.*

**HAWAII**

Hawaii amended its open meetings law in June 1996 when Governor Benjamin Cayetano signed into a law a bill that allows members of state boards and commissions, county councils and most agencies to meet in secret in formal meetings adhering to the following guidelines:

1. Two members may meet on any subject as long as no commitment to vote is made or sought.
2. Two members to the number of members that constitutes less than a quorum may meet to investigate official business.
3. Members of a board may meet with the governor as long as it does not relate to a quasi-judicial matter.
4. Two members and the director of the department to which the board is administratively attached may meet.

Source: *State Sunshine Chair.*

**Region 12**

*Arkansas, Louisiana, Mississippi, Tennessee*

**ARKANSAS**

An anti-abortion group, seeking reports and files of women in Arkansas who undergo abortions, was denied access to the reports in December 1995 by the Arkansas Supreme Court. In *Arkansas Dep't of Health v. Westark Christian Action Council*, the anti-abortion group sought reports dating back to 1980 from three counties. The reports included the facility name and address where the abortion occurred; the age, marital status, city, county and zip code of the patient. It did not include the patient's name. The Health Department had interpreted the form to be a vital record and not subject to release under the Vital Records Statistics Act. The Supreme Court reversed the lower court, which had ruled that the records fell neither into the vital records exemption nor the medical records exemption, and held that the exemption for records of death "subsumes the subcategory of 'fetal death,'" thus making all abortion records exempt from disclosure.

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law, Winter 1996.*

President Clinton's videotape testimony in the fraud trial of James McDougal in Arkansas was the source of a Constitutional challenge in a federal District Court in June 1996. Judge George Howard, Jr. found that First Amendment rights of access were satisfied by permitting the press and the public to be present at the trial where the videotaped testimony was played. The news media coalition fighting for access to the tape argued that there was no basis for sealing part of the judicial record where "no jeopardy has been shown to national security interests, privacy interests or fair trial rights." The court did not question the motives of the news media in wanting the tape but wrote that "[n]evertheless, once released or broadcast, the press cannot maintain control over individuals who might copy the

broadcast and edit it to suit their purposes." The judge ordered an unedited transcript of the deposition be made part of the official record and released to the public as agreed to by all parties in early June. The video, however, would remain sealed under a protective order.

Source: *The Reporters Committee for Freedom of the Press, News Media Update, June 17, 1996.*

**TENNESSEE**

In Tennessee, the U.S. Court of Appeals in Cincinnati ruled in *U.S. v. Thomas* that every individual community can judge for itself whether material downloaded from computer bulletin boards is obscene. The judges upheld the convictions and sentences of Robert and Carleen Thomas, who were tried on obscenity charges in federal District Court in Memphis in 1994 because they posted sexually explicit images on their California-based, adult, subscription-only bulletin board service that were then retrieved electronically in Tennessee. The court ruled that "a right to possess obscene materials in the privacy of one's home does not create a correlative right to receive it, transport it, or distribute it."

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law, Spring 1996.*

In late June, according to attorneys in the Courtney Matthews murder trial in Clarksville, Tennessee a camera error that precipitated a motion for a mistrial in the highly publicized case could affect the future of camera court coverage in Tennessee. A Channel 4 camera operator aimed the camera at the judge's chair instead of at the ceiling as Judge John Gasaway had instructed. The error occurred while the jury was examining hundreds of trial exhibits as part of its deliberations.

Source: *The Freedom Forum, First Amendment Legal Watch, June 17, 1996.*

The Court of Criminal Appeals ruled in May 1996 that a trial judge erred in prohibiting the media from publicizing the name of a key prosecution witness in a triple murder case. The

appeals court wrote that "media may publish the names testimony of witnesses testify in open court during a public trial with impunity. Any restraint placed on this right is violative of the First Amendment." The trial court instituted the restraining order at the behest of the prosecution which said it had feared the defendant's cartel associates of the defendant might harm or intimidate witnesses.

Source: *The Freedom Forum, First Amendment Legal Watch, 27, 1996.*

*The Reporters Committee for Freedom of the Press, News Media Update, June 17, 1996.*

The Tennessee Court of Criminal Appeals in April 1996 in *State v. Morley* overruled a Circuit Court of Appeals that banned television cameras from a murder trial. The Circuit Court believed that the cameras might endanger trial participants and hamper witness testimony. The appellate court recognized a presumption in favor of the media coverage and stated that restrictions "must be supported by substantial evidence." The court was unable to find any factual basis for the exclusion and ordered the circuit court either to hold hearings on the issue or open all future proceedings to television coverage.

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law, Spring 1996;*

*The Freedom Forum, First Amendment Legal Watch, June 1996.*

The Tennessee Attorney General in January 1996 reversed an earlier advisory opinion, which allowed citizens to ban cameras from their board meetings, and declared that an outright ban on cameras or recording equipment in public meetings was a violation of Tennessee's Open Meetings Act.

Source: *The Reporters Committee for Freedom of the Press, The News Media & The Law, Winter 1996.*

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The following list, reprinted with permission of the Justice Department, contains the principal FOIA administrative and legal contacts at all federal agencies dealing regularly with FOIA matters. In some instances (e.g., the Department of Defense), all major agency components are listed individually under the agency. In other instances (e.g., the Food and Drug Administration), major agency components are listed separately. In still other instances (e.g., the Department of Labor), no components are listed, as it is the agency's preference that all FOIA contacts be made through its main FOIA office.

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**National Credit Union Administration**

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1775 Duke St.  
Alexandria, VA 22314  
www.ncua.gov

**National Endowment For The Arts**

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**National Endowment For The Humanities**

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Washington, D.C. 20506  
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**National Labor Relations Board**

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6010 Executive Blvd.  
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html/other/NSC.html

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**Transportation Department**

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**Veterans Affairs Department**

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**The White House**

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# State access laws and contacts

## Alabama

**Open Meetings Law:** Al. Code §36-12-40 et seq.

**Closed:** Attorney-client meetings; discussions where "character or good name" of a person is involved; and grand jury and juvenile proceedings.

**Open Records Law:** Al. Code §36-12-40 et seq.

**Exempt:** Banking, juvenile court, hospital and probation reports; identity of Medicaid recipients; reports of suspected disease cases; tax and financial statements.

### CONTACTS

**State Sunshine Chair**  
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**Attorney General of Alabama**  
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**Alabama Press Association**  
Birmingham  
(205) 871-7737

**Alabama Press Association**  
Legal Hotline  
Montgomery  
(205) 834-8480

**Alabama State Bar**  
(205) 269-1515

## Alaska

**Open Meetings Law:** A.S. §44.62.310 et seq.

**Closed:** If they could prejudice the reputation or character of any person, or adversely affect government finances.

**Open Records Law:** A.S. §09.25.110 et seq.

**Exempt:** Juvenile, adoption, medical and public health; library lending; names of victims of certain types of sexual assault; and some law enforcement records.

### CONTACTS

**State Sunshine Chair**  
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**Attorney General of Alaska**  
(907) 465-3600

**Alaska State Bar Association**  
(907) 272-7469

## Arizona

**Open Meetings Law:** A.R.S. §38-431 et seq.

**Closed:** Salary, discipline, negotiations; planning; and legal consultation.

**Open Records Law:** A.R.S. §39-121 et seq.

**Exempt:** Adoption records; disciplinary records of some professional groups; some medical records; some corrections department records; bank records; and trade secrets.

### CONTACTS

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**Arizona First Amendment Coalition Hotline**  
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**State Bar of Arizona**  
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Tucson: (602) 623-8258

## Arkansas

**Open Meetings Law:** Ark. Code Ann. §25-19-106 et seq.

**Closed:** To consider employment, appointment, promotion, demotion, disciplining, or resignation of any public employee.

**Open Records Law:** Ark. Code Ann. §25-19-105 et seq.

**Exempt:** Income tax records; medical, scholastic and adoption records; historical and archeological files; on-going law enforcement investigations; working papers, competitive advantage, and personnel records; and identities of undercover law enforcement officers.

### CONTACTS

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(501) 374-1500

(800) 482-8982

**Attorney General's Office, FOI Hotline**

(800) 482-8982

**Arkansas Bar Association**

(501) 375-4605

(800) 482-9406

## California

**Open Meetings Law:** C.P.R.A. §11120

**Closed:** Consultation on pending litigation; discipline of public employees; real estate transactions; and collective bargaining.

**Open Records Law:** C.P.R.A. §6250

**Exempt:** Law enforcement investigations; litigation; and proprietary business data and personal privacy.

### CONTACTS

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**State Sunshine Chair-2**  
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**California First Amendment Coalition Actionline**  
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(916) 485-2912 (after hours and weekends)

**The State Bar of California**  
San Francisco:  
(415) 561-8200  
Los Angeles: (213) 765-1000  
Sacramento: (916) 444-2762

## Colorado

**Open Meetings Law:** C.R.S. 24-6-401 et seq.

**Closed:** Social gatherings and

chance meetings; property matters; attorney conferences; negotiations with employee organizations; personnel; student discipline.

**Open Records Law:** C.R.S. 72-201 et seq.

**Exempt:** At discretion of custodian: Records of investigatory test questions; details of research projects being conducted by state; real estate appraisals; motor vehicle license photographs. Custodian may exempt: Medical data; personnel files; letters of reference; secrets; library records; address of public school children; sexual harassment complaints under investigation.

### CONTACTS

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**Colorado Freedom of Information Council**  
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**The Colorado Bar Association**  
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## Connecticut

**Open Meetings Law:** Conn. Stat. §1-18a et seq.

**Closed:** Certain personnel matters; collective bargaining negotiating sessions; administrative staff meetings; certain real estate transactions; security strategy; and pending litigation negotiations.

**Open Records Law:** Conn. Stat. §1-18a et seq.

**Exempt:** Fifteen total exemptions including: Personnel, medical and some law enforcement juvenile; some witness and victim identification records; pending litigation files; and estate documents.

**CONTACTS**
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**Connecticut Foundation for Open Government**

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**Connecticut Bar Association**

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## Delaware

**Open Meetings Law:** 29 Del. C. §10001 et seq.

**Closed:** Criminal investigations; employee evaluations; attorney-client discussions; collective bargaining; real estate transactions; student disciplinary hearings; and attorney-client meetings.

**Open Records Law:** 29 Del. C. § 10001 et seq.

**Exempt:** Personnel, medical, and student files; trade, investigative and intelligence documents; charitable donations; collective bargaining; and pending lawsuits.

**CONTACTS**
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**Maryland, D.C., Delaware Press Association**

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**Delaware State Bar Association**

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## District of Columbia

**Open Meetings Law:** D.C. Code Ann. §1-1504 et seq. All meetings of government departments, agencies, boards or commissions are open. However, these bodies need only come into session to ratify their

actions.

**Open Records Law:** D.C. Code Ann. §1-1522 et seq.

**Exempt:** Numerous exemptions including: Records of personal privacy and trade secrets; some law enforcement records; some agency memos; information exempted by federal law due to national defense concerns or foreign policy; information in arson investigations and vital records.

**CONTACTS**
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## Florida

**Open Meetings Law:** Fla. Stat. sec. 286.011 et seq. All meetings of boards and commissions open. Most collegial public bodies also open.

**Open Records Law:** Fla. Stat. sec. 119.01 et seq.

**Exempt:** More than 600 exemptions, check listed code citation.

**CONTACTS**
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## Georgia

**Open Meetings Law:** O.C.G.A. §50-14

**Closed:** Certain personnel matters, attorney consultations and real estate transactions.

**Open Records Law:** O.C.G.A.

§50-18-70

**Exempt:** Investigations; certain real estate documents; attorney-client privilege documents; and names of handgun carriers. Electronic records open.

**CONTACTS**
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**State Bar of Georgia**

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## Hawaii

**Open Meetings Law:** Haw. Rev. Stat. §92-1 et seq.

**Closed:** To consider personnel information relating to those applying for professional or vocations licenses; hiring or firing of an employee; labor negotiations; property negotiations; attorney consultation; misconduct investigations; and public safety or security. State boards and commissions may meet in private if no commitment to vote is made or sought; also can meet with the governor as long as it does not relate to a quasi-judicial matter.

**Open Records Law:** Haw. Rev. Stat. §91-1 et seq.

**Exempt:** Medical, psychiatric, or psychological information; criminal investigations; social services or welfare benefits information; personnel files; fitness to be granted a license; and personal recommendations and evaluations.

**CONTACTS**
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**Office of Information Services**

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**Hawaii State Bar Association**

(808) 537-1868

## Idaho

**Open Meetings Law:** Idaho Code §67-2341 et seq.

**Closed:** Personnel matters; labor negotiations; matters of competitive trade or commerce with other states or nations; and pending or probable litigation.

**Open Records Law:** Idaho Code §9-337 et seq.

**Exempt:** 40 exemptions, check code citation.

**CONTACTS**
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(208) 334-4500

## Illinois

**Open Meetings Law:** Ill. Rev. Stat. Ch. 102, par 41 et seq.

**Closed:** Pending litigation; certain personnel matters; and real estate discussions.

**Open Records Law:** Ill. Rev. Stat. Ch. 116, par. 201 et seq.

**Exempt:** Records that may infringe on personal privacy; student and welfare recipient records; and some law enforcement files.

**CONTACTS**
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**Indiana**

**Open Meetings Law:** I.C. §§5-14-1.5-1 et seq.

**Closed:** Numerous exemptions including: Collective bargaining, litigation strategy, and certain real estate transactions.

**Open Records Law:** I.C. §§5-14-3-1 et seq.

**Exempt:** Trade secrets; university research; and certain educational and medical records. Discretionary exemptions include: Personnel files; diaries; journals; and personal notes.

**CONTACTS**

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**Iowa State Bar Association**  
(515) 243-3179

**Kansas**

**Open Meetings Law:** K.S.A. 75-4317 et seq.

**Closed:** Attorney consultations; personnel matters; employer-employee negotiations; trade secrets; and acquisitions of real estate property.

**Open Records Law:** K.S.A. 45-215 et seq.

**Exempt:** 42 exemptions, check code citation.

**CONTACTS**

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**Kentucky**

**Open Meetings Law:** K.R.S. 61.810 et seq.

**Closed:** Parole board; collective bargaining; certain real estate transactions; certain employee matters; certain business negotiations; and pending litigation involving a public agency.

**Open Records Law:** K.R.S. 61.872 et seq.

**Exempt:** Personal information prohibited from disclosure for privacy reasons; some law enforcement records; some real estate documents, etc.

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(606) 276-0563

**Louisiana**

**Open Meetings Law:** La.R.S. 42:4.1 et seq.

**Closed:** Discussion of the character, professional competence or health of a person; collective bargaining negotiations; discussions of security plans or devices; misconduct investigations; and natural disaster discussions.

**Open Records Law:** La.R.S. 44:1 et seq.

**Exempt:** Pending criminal litigation; juvenile status offenders; sexual offense victims; security procedures; trade secrets; and some public employee information.

**CONTACTS**

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**Maine**

**Open Meetings Law:** M.R.S.A. Sec. 403 et seq.

**Closed:** Certain personnel matters; attorney consultations; and student disciplinary considerations.

**Open Records Law:** M.R.S.A. Sec. 402 et seq.

**Exempt:** Certain law enforcement investigation documents; records of legislature; and university administrative committees.

**CONTACTS**

**State Sunshine Chair**

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(207) 626-8800

**Maine State Bar Association**  
(207) 622-7523

**Maryland**

**Open Meetings Law:** Md. Sta. Gov't Code Ann. §§10-501 et seq.

**Closed:** Discussion of the individual characteristics of a person; certain personnel matters; collective bargaining; and real estate transactions.

**Open Records Law:** Md. Sta. Gov't Code Ann. §§10-611 et seq.

**Exempt:** Information that invade individual privacy; trade secret public policy development memos; and investigative materials.

**CONTACTS**

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Jim Keat  
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**Maryland, D.C., Delaware  
Press Association**

Annapolis  
(410) 263-7878

**Maryland State Bar Association  
Inc.**  
(410) 685-7878

**Massachusetts**

**Open Meetings Laws:** G.L. c. 30A, § 23-24

**State:** G.L. c. 30, 11

**County:** G.L. c. 34, 9F

**Municipality:** G.L. c. 39, 23B

**Closed:** Certain personnel matters; discussion of individual characteristics; collective bargaining; real estate negotiation and disciplinary records.

**Open Records Law:** G.L. c. 66, sec. 10

**Exempt:** Information that would invade individual privacy; trade secrets; public policy development memos; and investigative materials.

**CONTACTS**

**State Sunshine Chair**

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(508) 543-7063

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(617) 727-2200

**Massachusetts Public  
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(617) 727-2832

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**Massachusetts Bar Association**  
Boston: (617) 542-3602  
Northampton:  
(413) 584-4438  
Springfield: (413) 731-5134

## Michigan

**Open Meetings Law:** Mich. Comp. Laws Ann. §15.261 et seq.

**Closed:** Collective bargaining; real estate transactions; and pending litigation discussions. Discussion of certain personnel matters and student records may be closed if relevant board votes to close.

**Open Records Law:** Mich. Comp. Laws Ann. §15.231 et seq.

**Exempt:** Information deemed private; trade secrets; advisory communications with government agencies; attorney-client communications; medical counseling and psychological facts or appraisals; records of campaign committees; and some law enforcement records.

### CONTACTS

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**Michigan Association of Broadcasters**  
Lansing  
(517) 484-7444

**State Bar of Michigan**  
(612) 333-1183,  
(800) 882-6722

## Minnesota

**Open Meetings Law:** Minn. Statutes 471.705 et seq.

**Closed:** Attorney consultation; personnel matters; labor negotiations; internal affairs for law enforcement personnel; criminal investigations; medical data; welfare data; and hospital boards considering marketing strategy.

**Open Records Law:** Minn.

Statutes 13.01 et seq.  
**Exempt:** Juvenile court records; and some personnel information.

### CONTACTS

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The Star Tribune  
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**Minnesota Newspaper Association**  
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(612) 827-5611

**Society of Professional Journalists**  
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**Minnesota FOI Hotline**  
(612) 827-5611

**Minnesota State Bar Association**  
(612) 333-1183  
(800) 882-6722

**Minnesota Joint Media Committee**  
St. Paul  
(612) 224-8356

## Mississippi

**Open Meetings Law:** Miss. Code Ann. 25-4-1 et seq.

**Closed:** Personnel matters; impending litigation; security personnel, plans, and devices; misconduct investigations; extraordinary emergencies posing immediate or irrevocable harm to persons or property; the purchase, sale or leasing of lands; admissions tests; and the location, relocation or expansion of a business or industry.

**Open Records Law:** Miss. Code Ann 25-61-1 et seq.

**Exempt:** Personnel matters; employment applications; individual tax records; academic examination questions; appraisal information concerning the sale or purchase of property for public purposes; and attorney work product concerning litigation.

### CONTACTS

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(601) 359-3692

**Mississippi Press Association**  
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(601) 981-3060

**The Mississippi Bar**  
(601) 948-4471

## Missouri

**Open Meetings Law:** Mo. Code §610.010 et seq.

**Closed:** Legal actions; leasing, purchase or sale of real estate; personnel matters; the state militia; health examinations; testing materials; negotiations with employees; and sealed bids.

**Open Records Law:** Mo. Code §610.023 et seq.

**Exempt:** Same as meetings law.

### CONTACTS

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**Missouri Press Association**  
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(573) 449-4167

**FOIA Coalition**  
Missouri Freedom of Information Center  
Columbia  
(314) 882-4856

**The Missouri Bar**  
(314) 635-4128

## Montana

**Open Meetings Law:** Montana Code 2-3-201 et seq.

**Closed:** Matters involving individual privacy.

**Open Records Law:** Montana Code 2-6-101 et seq.

**Exempt:** The Supreme Court has held that the state's record laws may be overridden if the constitutional public right to know outweighs the individual privacy interest.

### CONTACTS

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(406) 443-2850

**Montana Freedom of Information Hotline Inc.**  
Helena  
(406) 442-7440

**Montana FOI Hotline**  
(406) 442-3261

**State Bar of Montana**  
(406) 442-7660

## Nebraska

**Open Meetings Law:** N. Statutes §84-1409 et seq.

**Closed:** Collective bargaining; real estate purchases; litigation; to protect an individual's reputation; and security personnel and devices.

**Open Records Law:** N. Statutes §84-712 et seq.

**Exempt:** Personal information on student and personnel records; medical records; trade secrets; academic and scientific research; attorney work product; law enforcement or investigative records; some archeological records; and real estate appraisals.

### CONTACTS

**State Sunshine Chair**  
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**Nebraska Press Association**  
Lincoln  
(402) 476-2851

**Nebraska State Bar Association**  
(402) 475-7091

## Nevada

**Open Meetings Law:** N.R.S. 241 et seq.

**Closed:** To consider someone's character, alleged misconduct, or professional competence; and to conduct labor negotiations.

**Open Records Law:** N.R.S. 239 et seq.

**Exempt:** Over 300 exemptions. Custodians must balance privacy issues with public interest.

### CONTACTS

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(702) 687-4170

**Nevada Press Association**  
Carson City

(702) 885-0866  
**Media Hotline**  
 Kevin Doty, attorney  
 (702) 383-8887  
**State Bar of Nevada**  
 Las Vegas: (702) 382-2200  
 Reno: (702) 329-4100

**New Hampshire**

**Open Meetings Law:** R.S.A. Ch. 91-A et seq.  
**Closed:** Certain personnel matters, real estate meetings and pending litigation.  
**Open Records Law:** R.S.A. Ch. 01-A et seq.  
**Exempt:** Investigative files; parole and pardon board records; student records; and certain commercial/financial information.

**CONTACTS**  
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**New Hampshire Bar Association**  
 (603) 224-6942

**New Jersey**

**Open Meetings Law:** N.J.S.A. 10:4 et seq.  
**Closed:** Meetings that may result in invasion of privacy; real estate transactions; collective bargaining agreements; pending litigation; and personnel action.  
**Open Records Law:** N.J.S.A. 47:1A-1 et seq.  
**Exempt:** Child abuse records; and pending investigation records.

**CONTACTS**  
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 Wilson Barto  
 retired  
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**New Jersey Press Association**  
 Trenton  
 (609) 695-3366  
**New Jersey SPJ Pro Chapter Hotline**  
 (800) 813-9490  
**New Jersey State Bar Association**  
 (908) 249-5000

**New Mexico**

**Open Meetings Law:** 10-15-1 N.M.S.A. 1978 et seq.  
**Closed:** Discussions of using, suspending, renewing or revoking a license; limited personnel matters; student information; deliberations related to administrative proceedings; collective bargaining; discussions of purchases of more than \$2,500; attorney consultations; discussion of the purchase, acquisition or disposal of real estate property; and discussions of strategic business plans of public hospitals that receive less than fifty percent of their operating budgets from direct public funds.  
**Open Records Law:** 14-2-1 N.M.S.A. 1978 et seq.  
**Exempt:** Physical or mental examinations and medical treatment information; employee recommendations; personnel matters; and law enforcement records that reveal confidential sources or methods.

**CONTACTS**  
**Attorney General of New Mexico**  
 (505) 827-6000  
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 Albuquerque  
 (505) 275-1377  
**New Mexico Foundation for Open Government**  
 Albuquerque  
 (505) 345-7808  
**Media Hotline**  
 New Mexico Foundation for Open Government  
 (800) 284-6634  
 (505) 345-7808  
**State Bar of New Mexico**  
 (800) 876-6227  
 (505) 842-6132

**New York**

**Open Meetings Law:** NY Pub. Off. Law sec. 103 et seq.  
**Closed:** Litigation strategy discussions; collective bargaining; certain real estate transactions; certain personnel matters; and matters which would imperil public safety or law enforcement or disclose identity of informant.  
**Open Records Law:** NY Pub. Off. Law sec. 84 et seq.  
**Exempt:** Disclosures resulting in unwarranted invasion of privacy or business/competition enterprises; names of sex crime victims; and some law enforcement records and inter/intra agency materials.

**CONTACTS**  
**State Sunshine Chair**  
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 Healthcare Association of New York State  
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**New York Committee to Open Government**  
 (518) 474-2518  
**New York State Bar Association**  
 (518) 463-3200

**North Carolina**

**Open Meetings Law:** G.S. §143-318.9  
**Closed:** 20 exemptions including: Attorney consultation; discussion of contract bids; employee matters; and certain real estate transactions.  
**Open Records Law:** G.S. §132-1  
**Exempt:** Confidential legal communications; government settlement documents; criminal investigations; and intelligence information.

**CONTACTS**  
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 Chip Wilson  
 Charlotte Observer  
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<http://www.state.de.us/govern/ellecoffl/attgen/agoffice.htm>

**North Carolina Press Association**  
 Raleigh  
 (919) 787-7443  
**North Carolina First Amendment Foundation**  
 Raleigh  
 (919) 755-0025  
**North Carolina State Bar Association**  
 (919) 828-4620

**North Dakota**

**Open Meetings Law:** N.D.C. §44-04-19 et seq.  
**Closed:** Attorney consultation during pending litigation; no renewal hearings between school board and teacher; juvenile proceedings; and hiring/firing college or university personnel and presidents by the State Board of Higher Education.  
**Open Records Law:** N.D.C. §44-04-18 et seq.  
**Exempt:** Juvenile records; trade secrets; public employee medical and assistance records; workers compensation; unemployment; tax information; law enforcement investigation records; and most Department of Human Services records.

**CONTACTS**  
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**North Dakota Newspaper Association**  
 Bismarck  
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**State Bar Association of North Dakota**  
 (701) 244-1404  
 (800) 472-2685

**Ohio**

**Open Meetings Law:** Ohio Rev. Code sec. 121.22 et seq.  
**Closed:** Real estate transactions; certain personnel matters; certain law enforcement meetings; Adult Parole Authority; and certain medical board meetings.  
**Open Records Law:** Ohio Rev. Code sec. 149.43 et seq.  
**Exempt:** Personal bank records; medical records; adoption records; probation and parole

records; and certain law enforcement investigative records.

## CONTACTS

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**Ohio Newspaper Association**

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**Ohio Association of Broadcasters**

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**Ohio State Bar Association**

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**Ohio Center for Privacy and the First Amendment**

Kent State University  
(216) 672-2572

**Ohio Coalition for Open Government**

Columbus  
(614) 486-6677

**Oklahoma**

**Open Meetings Law:** OK Stat., tit. 25, §301 et seq.

**Closed:** Executive sessions of the State Banking Board and Oklahoma Savings and Loan Board; state judiciary, legislative, or administrative staffs meetings of public bodies; and some meetings of institutions of higher education and certain school board meetings.

**Open Records Law:** OK Stat., tit. 51, §24A.1 et seq.

**Exempt:** If protected by state evidentiary privilege; real estate appraisals; personnel records; registration files of sex offenders; public officials' personnel notes; business-related bids; computer programs; medical market research; and certain educational records including student records.

## CONTACTS

**State Sunshine Chair**

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**Oklahoma Press Association**

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**FOI Oklahoma Inc.**

Oklahoma City  
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**Oklahoma Bar Association**

(405) 524-2365

**Oregon**

**Open Meetings Laws:** O.R.S. 192.610 et seq.

**Closed:** Personnel matters; filling of a vacancy in elective office; misconduct investigations; conduct of medical staff at public hospitals; labor negotiations; property negotiations; trade or commerce negotiations; and attorney consultations.

**Open Records Laws:** O.R.S. 192.410 et seq.

**Exempt:** Records less than 75 years old containing information on the health care treatment of a living individual; impending litigation; trade secrets; criminal investigation materials; testing materials; real estate appraisals; personnel disciplinary action; and computer programs.

## CONTACTS

**State Sunshine Chair**

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Medford Mail Tribune  
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**Oregon Newspaper Publishers Association**

Portland  
(503) 624-NEWS

**Oregon State Bar**

(503) 620-0222  
(800) 452-8260

**Pennsylvania**

**Open Meetings Law:** 65 Pa. Cons. Stat. Section 261 et seq.

**Closed:** Attorney consultations; collective bargaining; certain personnel matters; and some real estate transactions.

**Open Records Law:** 65 Pa. Stat. Section 66.1 et seq.

**Exempt:** Some investigative records; birth and death records; some election reports; and accident reports.

## CONTACTS

**State Sunshine Chair**

Peter Levin  
It's the Law  
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**Attorney General of Pennsylvania**

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**Pennsylvania Newspaper Publishers Association**

Harrisburg  
(717) 234-4067

**Pennsylvania First Amendment Coalition**

Harrisburg  
(717) 234-4067. Ext. 222 or 224

**Pennsylvania Bar Association**

(717) 238-6715

**Rhode Island**

**Open Meetings Law:** R.I. Gen. Laws §§42-46-1

**Closed:** Certain personnel matters; collective bargaining; litigation; security; real estate transactions; school committees; student disciplinary hearings; and student records.

**Open Records Law:** R.I. Gen. Laws §§38-2-1

**Exempt:** Presumption of disclosure with few exemptions.

## CONTACTS

**State Sunshine Chair**

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(401) 274-4400

**Rhode Island Press Association**

Bristol  
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**Rhode Island Bar Association**

(401) 421-5740

**South Carolina**

**Open Meetings Law:** S.C. Code Ann. §30-4-60

**Closed:** Certain personnel matters, criminal investigations, and some real estate transactions.

**Open Records Law:** S.C. Code Ann. §30-4-10

**Exempt:** Pending investigation documents; confidential attorney communications; identification of informants; certain bank and business transactions; and income tax returns.

## CONTACTS

**State Sunshine Chair**

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Lancaster News  
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(803) 734-3970

**South Carolina Press Association**

Columbia  
(803) 254-1607-

**South Carolina Bar**

(803) 799-6653

**South Dakota**

**Open Meetings Law:** S.D.C.L. 1-25-1 et seq.

**Closed:** Legal matters; employee or student performance; labor negotiations; and pricing strategies by publicly-owned competitive businesses.

**Open Records Law:** S.D.C.L. 1-27-1 et seq.

**Exempt:** Savings and loan association reports; school records; juvenile court records; adoption records; hospital licensing and inspection information; and medical research information.

## CONTACTS

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**South Dakota Newspaper Association**

Brookings  
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**State Bar of South Dakota**

(605) 224-7554

**Tennessee**

**Open Meetings Law:** Tenn. Code Ann. 8-44-102 et seq.

**Closed:** Labor negotiations; personnel matters; and discussions with an attorney regarding pending litigation.

**Open Records Law:** Tenn. Code Ann. 10-7-503 et seq.

**Exempt:** Medical records of patients in state institutions; some investigative records; public school student records; and some economic development issues, such as land acquisition.

**State Sunshine Chair**

Frank Gibson  
The Tennessean  
(615) 726-5907

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(615) 741-6474

**Tennessee Press Association**

Knoxville  
(423) 584-5761

**First Amendment Center-Freedom Forum**

Nashville  
(615) 321-9588

**Tennessee Bar Association**

(615) 383-7421

**Texas**

**Open Meetings Law:** Tex. Rev. Civ. Stat. Ann. art. 6252-17-1

**Closed:** Attorney consultations; real estate transactions; hearings of the ethics commission; personnel and individual student matters; and emergency medical service quality reviews, etc.

**Open Records Law:** Tex. Rev. Civ. Stat. Ann. art. 6252-17a

**Exempt:** Over 30 exemptions including: Confidential information as defined by law; personnel information; litigation or settlement negotiations involving state, competition or bidding information; certain real estate information; certain legislative documents; certain investigation or prosecution documents; certain private communications of public office holders; certain trade or financial secrets; and student records.

**CONTACTS****State Sunshine Chair**

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Texas Attorney General's  
Open Government Hotline  
(512) 478-6736

**FOI Foundation of Texas Inc.**

Dallas  
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(800) 580-6651

**State Bar of Texas**

(512) 463-1463  
(800) 204-2222

**Utah**

**Open Meetings Law:** Utah Code 52-4-1 et seq.

**Closed:** Personnel matters; collective bargaining; pending or reasonably imminent legislation; purchase, sale, lease or exchange of real property; security matters; and criminal investigations.

**Open Records Law:** Utah Code 63-2-101 et seq.

**Exempt:** The Government Records Access and Management Act (GRAMA) classifies government records into four categories: Public, private, controlled and protected. Check code citation.

**CONTACTS****State Sunshine Chair**

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**Utah Press Association**

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(801) 328-2226

**FOIA Coalition**

Utah Foundation for Open  
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(801) 237-2100

**Utah FOI Hotline**

In state: (800) 574-4546  
Out of state: (801) 532-7840

**Utah State Bar**

(801) 531-9077

**Vermont**

**Open Meetings Law:** 1 V.S.A. §§310 et seq.

**Closed:** Contract negotiations; employee matters; certain real estate matters; disciplinary records of public employees and students; and other records/documents exempted in Title 1, 317b; and discussions that would result in a clear and imminent peril to public safety.

**Open Records Law:** 1 V.S.A. §§315 et seq.

**Exempt:** Twenty exemptions including: Personnel files; criminal investigation records; tax documents; and location of historical/archaeological sites.

**CONTACTS****State Sunshine Chair**

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The Burlington Free Press

(802) 660-1845

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(802) 828-3171

**Vermont Bar Association**

(802) 223-2020

**Virginia**

**Open Meetings Law:** Va. Code Secs. 2.1-340 et seq.

**Closed:** Terrorism activities precautions; some personnel matters, attorney consultations, real estate matters, student disciplinary matters, etc.

**Open Records Law:** Va. Code Secs. 2.1-340 et seq.

**Exempt:** Some criminal investigations; some police reports; tax returns; medical records; personnel matters; real estate; attorney client privilege exemptions; and working papers.

**CONTACTS****State Sunshine Chair**

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(540) 374-5420

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(804) 786-2071

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Ashland  
(804) 550-2361

**Virginia Open Government Foundation**

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**FOI Hotline**

c/o Va. Press Association  
(804) 644-7851

**Virginia State Bar**

(804) 775-0500

**Washington**

**Open Meetings Law:** Wash. Rev. Code § 42.30.010 et seq.

**Closed:** Meetings about national security matters and site selection; acquisition of real estate; and personnel matters.

**Open Records Law:** Wash. Rev. Code § 42.17.010 et seq.

**Exempt:** Personal student or patient information; employee files; and some investigative records.

**CONTACTS****State Sunshine Chair**

Bill Morlin  
Spokesman-Review  
(509) 459-5444

**Attorney General of Washington**

(360) 753-6200

**Washington State Bar Association**

(206) 727-8200

**West Virginia**

**Open Meetings Law:** W.Va. Code § 6-9A-1 et seq.

**Closed:** Some medical information; meetings on riots personnel, discipline, suspension or expulsion of a student

**Open Records Law:** W.Va. Code § 29B-1-1 et seq.

**Exempt:** Trade secrets; information violating personal privacy; some exam data; some archaeological sites; and law enforcement records for internal use.

**CONTACTS****State Sunshine Chair**

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**West Virginia Press Association**

Charleston  
(304) 342-1011

**West Virginia Broadcasters Association**

Charleston  
(304) 744-2143

**West Virginia State Bar**

(304) 558-2456

**Wisconsin**

**Open Meetings Law:** Wis. Stat. 19.81 et seq.

**Closed:** Certain negative or disciplinary personnel matters; personnel employment, promotion, compensation or performance evaluations; strategy for crime detection and prevention; to deliberate or negotiate the purchase of public properties; to consider financial, medical, social or personal histories or disciplinary data of specific persons that would likely have a substantial adverse affect upon the reputation of the person; and attorney consultations.

**Open Records Law:** Wis. Stat. 19.31 et seq.

**Exempt:** Certain investigative





records, computer programs and trade secrets; public library circulation records are confidential.

**State Sunshine Chair**

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**Wisconsin FOI Council**  
Madison  
(608) 252-6410  
**State Bar of Wisconsin**  
(608) 257-3838

**Wyoming**

**Open Meetings Law:** Wyo. Stat. § 16-4-401 et seq.

**Closed:** Sessions regarding threats to security; personnel matters; parole board meetings regarding granting of parole; purchasing or leasing of property; and meetings regarding anonymous gifts to public agencies.

**Open Records Law:** Wyo. Stat. § 16-4-201 et seq.

**Exempt:** Some law enforcement investigation records; testing materials; details of state institutions' research projects; labor negotiations; school board and university student disciplinary

records; and medical records of publicly funded hospitals.

**State Sunshine Chair**

Charles Levendosky  
Casper Star-Tribune  
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Wyoming FOI Hotline  
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(307) 632-9061



# Media, citizen, trade groups

**Access Reports Inc.**

1624 Dogwood Lane  
Lynchburg, VA 24503  
Harry A. Hammitt, editor/publisher  
(804) 384-5334  
Available electronically through NewsNet.  
**Purpose:** A biweekly newsletter following freedom of information court cases.

**American Association of Independent News Distributors**

16 Santa Ana Pl  
Walnut Creek, CA 94598  
Deborah Dobbs, executive director  
(510) 935-2026  
www.aaind.org  
**Purpose:** Independent, non-profit organization of newspaper distributors and dealers.

**American Civil Liberties Union**

132 W 43rd St  
New York, NY 10036  
Ira Glasser, executive director  
(212) 944-9800  
www.aclu.org  
**Purpose:** Promotes the use and understanding of federal open government laws, including FOIA, the Government in the Sunshine Act,

and the Federal Advisory Committee Act. Co-sponsors the Center for National Security Studies, which frequently deals with FOI matters concerning national security and intelligence records.

**American Jewish Press Association**

5307 Marsh Creek Drive  
Austin, TX 78759  
L. Malcolm Rodman, executive director  
(800) 327-4777

**Purpose:** Seeks to raise and maintain the standards of professional Jewish journalism. Provides a forum for the exchange of ideas and information among Jewish publications and journalists in the U.S. and Canada.

**American Library Association**

50 E Huron St  
Chicago, IL 60611  
Elizabeth Martinez, executive director  
(312) 944-6780  
www.ala.org

**Purpose:** Promotes and improves library service and librarianship. Works in liaison with federal agencies to initiate the enactment and administration of legislation that will extend library services.

**American Press Institute**

11690 Sunrise Valley Dr  
Reston, VA 20191  
William L. Winter, executive director and president  
(703) 620-3611  
www.newspaper.org/api

**Purpose:** Educational center dedicated to the continuing education and management training of newspaper men and women in the U.S. and Canada. Bestows fellowships to those actively involved in the newspaper industry.

**American Society of Access Professionals**

17th St NW Suite 200  
Washington, D.C. 20006  
Claire Shanley, executive director  
(202) 223-9669

**Purpose:** Federal employees, attorneys, journalists, educators and others working with, or having an interest in, advancing effective techniques and procedures for administering access statutes such as FOIA. Seeks to enhance responsible and cost effective administration of access laws.

**American Society of Newspaper Editors**

11690B Sunrise Valley Drive  
Reston, VA 20191  
Lee Stinnett, executive director  
(703) 453-1122,  
www.infi.net/asne/  
**Purpose:** Directing editors who determine editorial and news policy in daily newspapers.

**Anti-Censorship and Deception Union**

Porter Square  
P.O. Box 297  
Cambridge, MA 02140  
Roy Bercaw, president  
(617) 499-7965  
**Purpose:** Exposes and publicizes "major deceptions" that affect individuals and groups of people.

**Arab-American Press Guild**

P.O. Box 291150  
Los Angeles, CA 90029  
Yousef Elia Haddad, president  
(818) 896-5860  
**Purpose:** Improve the state of Arab-American media and the coordination of Arab-Americans working in the media.

**Asian American Journalists Association**

1765 Sutter St  
Suite 1000  
San Francisco, CA 94115

Sandra Michioku  
executive director  
(415) 346-2051

**Purpose:** Encourages young Asian Pacific Americans to enter ranks of journalism, works for fair and accurate coverage of Asian Americans, and increases the number of Asian American journalists and news managers in the industry.

#### **Associated Collegiate Press**

620 Rarig Center  
330 21st Ave S  
University of Minnesota  
Minneapolis, MN 55455  
Tom E. Rolnicki, executive director  
(612) 625-8335

studentpress.journ.umn.edu  
**Purpose:** Conducts annual critique of newspapers and annual critique of magazines and year-books.

#### **Associated Press Managing Editors Association**

50 Rockefeller Plaza  
New York, NY 10020  
Susan Clark, promotions coordinator  
(212) 621-1500

**Purpose:** Serves interests of managing editors.

#### **Association of Alternative Newsweeklies**

1001 Connecticut Ave NW  
Suite 822  
Washington, DC 20036  
Richard Karpel, executive director  
(202) 822-1955  
aan.org

**Purpose:** Provides members with informational services and updates on technology and the activities of other newspapers throughout the alternative press industry.

#### **Association of American Publishers, Inc.**

71 5th Ave  
New York, NY 10003-3004  
Nicholas A. Veliotos, president  
(212) 255-0200  
www.publishers.org

**Purpose:** Trade association representing producers of various types of books. Conducts seminars and workshops on various publishing topics including rights and permission, sales and educational publishing. Core programs deal with issues affecting publishers including First Amendment concerns.

#### **Association for Education in Journalism and Mass Communication**

University of South Carolina  
LeConte College, Room 121  
Columbia, SC 29208  
Jennifer H. McGill, executive director  
(803) 777-2005,  
www.aejmc.sc.edu/online/home.html

**Purpose:** Professional organization of college and university journalism teachers. Works to improve methods and standards of teaching and stimulate research.

#### **Association of National Advertisers**

155 E 44th St  
New York, NY 10017-4270  
John Sarsen, Jr., president and CEO  
(212) 697-5950

**Purpose:** Represents advertisers in government and industry.

#### **The Brechner Center for Freedom of Information**

University of Florida  
College of Journalism and Communications  
3208 Weimer Hall  
Gainesville, FL 32611  
Prof. Bill F. Chamberlin, director  
(352) 392-2273  
www.jou.ufl.edu/brechner/brochure.htm

**Purpose:** Research in mass media law, the First Amendment and the Sunshine Act, especially public access to government meetings and records and litigation information.

#### **Center for Democracy and Technology**

1634 I St NW  
Suite 1100  
Washington, DC 20006  
Jerry Berman, executive director  
(202) 637-9800  
www.cdt.org/

**Purpose:** Develop and advocate public policies that advance constitutional civil liberties and democratic values in new computer and communications technologies.

#### **Center for Investigative Reporting Inc.**

500 Howard St Suite 206  
San Francisco, CA 94105  
Dan Noyes, executive director  
(415) 543-1200  
Washington, D.C. office  
(202) 546-1880

**Purpose:** The center promotes investigative reporting and includes FOI issues as one of its main areas of study.

#### **Center for National Security Studies**

2130 H St. Suite 701  
Washington, DC 20037  
Kate Martin, director  
(202) 994-7060

**Purpose:** Works with other groups and concerned citizens in exposing secret policies to public debate. Assists individuals and groups seeking information under FOIA and coordinates litigation in related areas.

#### **Center for Public Integrity**

1634 I St NW  
Suite 902  
Washington, DC 20006  
Charles Lewis, executive director  
(202) 783-3900

**Purpose:** Promotes a higher standard of integrity in the American political process and in government. Investigates, analyzes and reports about public service issues.

#### **Center for Science in the Public Interest**

1875 Connecticut Ave NW  
Suite 300  
Washington, DC 20009  
Michael Jacobson, Ph.D., executive director  
(202) 332-9110  
www.cspinet.org

**Purpose:** Concerned with the effects of science and technology on society. Has petitioned federal agencies for better food labeling and action against deceptive food advertising, especially advertising directed at children.

#### **Citizens Against Government Waste**

1301 Connecticut Ave NW  
Suite 400  
Washington, DC 20036  
Thomas A. Schatz, president  
(202) 467-5300  
www.govt-waste.org

**Purpose:** Bipartisan organization that seeks to educate the public, individuals in public administration, and Congress on eliminating waste, mismanagement, and inefficiency in government spending. Seeks to expose cases of mismanagement which may occur at any level of government.

#### **Coalition on Political**

#### **Assassinations**

P.O. Box 772  
Washington, DC 20044-0772  
John Judge, executive secretary  
(202) 785-5299

www.nicom.com/~copa  
**Purpose:** Seeks to bring about full government disclosure of records related to assassinations. Monitors legislation related to disclosure of government records.

#### **College Media Advisers**

The University of Memphis  
Department of Journalism  
MJ-300  
Memphis, TN 38152-6661  
Ronald E. Spielberger, headquarters manager  
(901) 678-2403

www.spub.ksu.edu/~cma  
**Purpose:** Professional association serving advisers, directors and chairmen of boards of college student media. Encourages high school journalism and examines its relationships to college and professional journalism.

#### **Committee to Protect Journalists**

330 Seventh Ave., 12th floor  
New York, NY 10001  
Bill Orme, executive director  
(212) 465-1004,  
www.cpj.org

**Purpose:** To monitor abuses of the press and promote press freedom internationally. Provides current information about press conditions worldwide, organizes vigorous protests against attacks on the media, and advises press groups on how to document such violations of press freedom.

#### **Common Cause**

1250 Connecticut Ave NW  
Washington, DC 20036  
Ann McBride, president  
(202) 833-1200

**Purpose:** Citizens' body devoted to making government at the national and state levels more open and accountable to citizens and to improving government performance.

#### **Court-TV**

600 Third Ave.  
New York, NY 10016  
Lynn Rosenstrach  
(212) 973-3355  
www.courttv.com

**Purpose:** Educates viewers about the judicial process. Is a joint venture American Lawyer Media, L.P.

Time Warner Inc., NBC and Tele-Communications Inc.

## Cyberspace Law Center

c/o Georgetown Law Center  
Georgetown University  
600 New Jersey Ave NW  
Washington, DC 20001  
(202) 622-9070,  
www.cybersquirrel.com/clc/  
clcindex.html

**Purpose:** Internet site designed to be an evolving resource for those interested in legal issues concerning cyberspace.

## Electronic Frontier Foundation

1550 Bryant St  
Suite 725  
San Francisco, CA 94103  
(415) 436-9333  
Lori Fena, executive director  
www EFF.org/pub/Activism/FOI  
A/

**Purpose:** A non-profit civil liberties organization working in the public interest to protect privacy, free expression and access to public resources and information online, as well as to promote responsibility in the new media.

## First Amendment Congress

2200 S Josephine  
Denver, CO 80208  
Jean Otto president  
(303) 871-4430

**Purpose:** Enhances the awareness of all Americans that the First Amendment guarantees the right to petition the government, and acts as a clearinghouse for information regarding a variety of First Amendment issues.

## First Amendment Foundation

1313 W. 8th St  
Suite 313  
Los Angeles, CA 90017  
Frank Wilkinson, executive director  
(213) 484-6661

**Purpose:** Seeks to protect the rights of free express of individuals and organizations. Disseminates educational information on the First Amendment.

## First Amendment Press

Institute of Investigative Studies  
8129 N 35th Ave  
Suite 134  
Phoenix, AZ 85051-5892  
Greg Hauser, publisher  
(602) 561-9786, (800) 633-3274

**Purpose:** Provides information on citizens' rights and alleged government misconduct; offers legal advice and solutions. Conducts investigations.

## First Amendment Project

1736 Franklin St., 8th floor  
Oakland, CA 94612  
Elizabeth Pritzker, director  
Jim Wheaton, senior counsel  
(510) 208-7744

**Purpose:** To help individuals, citizen groups and the media obtain access to government records through direct enforcement of the FOIA as well as state and local public record laws.

## Freedom Forum

1101 Wilson Blvd  
Arlington, VA 22209-2248  
Paul McMasters, First Amendment Ombudsman  
(703) 528-0800,  
www.freedomforum.org

**Purpose:** International organization dedicated to free press, free speech and free spirit. Promotes the understanding and exercise of freedoms and values bodied in the First Amendment.

## Freedom Forum First Amendment Center

Vanderbilt University  
1207 18th Ave S  
Nashville, TN 37212  
(615) 321-9588  
www.freedomforum.org/  
or www.fac.org/

**Purpose:** An organization dealing with all aspects of the First Amendment. Serves as a forum for dialogue and debate on free expression, including FOI issues. Publications often include access issues.

## FOIA Group Inc

1090 Vermont Ave NW  
Suite 800  
Washington, DC 20005  
(202) 408-7028,  
www.cais.net/foia/

**Purpose:** Prepare and file FOIA requests at the appropriate agency (for a fee). Initiate the FOIA appeal when records are improperly held. Also provide reverse FOIA services by protecting government contractors' proprietary data from being released to competitors under FOIA.

## Freedom of Information Center

University of Missouri  
127 Neff Annex  
Columbia, MO 65211  
(573) 882-4856

www.missouri.edu/~foiwww/  
**Purpose:** A specialized reference and research library, assisting with requests or questions about FOI, freedom of the press or free speech issues. Reference and research given for a nominal fee.

## Freedom of Information Clearinghouse

P.O. Box 19367  
Washington, DC 20036  
(202) 588-7790

**Purpose:** Deals with FOI issues, publishes resources and undertakes some FOI litigation. Also affiliated with the Public Citizen Litigation Group.

## Friends of the Earth

1025 Vermont Ave NW  
Suite 300  
Washington, DC 20005  
Brent Blackwelder, President  
(202) 783-7400

**Purpose:** Dedicated to protecting the planet from environmental disaster. Empowers citizens to have an effective voice in environmental decisions.

## Fund for Constitutional Government

122 Maryland Ave NE  
Suite 300  
Washington, DC 20002  
Anne B. Zill, president  
(202) 546-3732

**Purpose:** Conducts research, education and litigation in cases with a large public impact, of precedent-setting value, and which, if rectified, will help preserve an open and accountable government.

## Government Accountability Project

810 1st St NE  
Suite 630  
Washington, DC 20002-3633  
Louis Clark, executive director  
(202) 408-0034

www.halcyon.com/tomcgap  
**Purpose:** Federal and corporate employees, union members, professionals and interested citizens. Provides legal and strategic counsel for corporate and public employees who seek to expose and combat government actions that are repressive, wasteful, illegal or which present a threat to public health and safety.

## Government Technology

9719 Lincoln Village Dr  
Suite 500  
Sacramento, CA 95827  
Dennis McKenna, editor in chief  
(916) 363-5000

## Investigative Reporters and Editors

138 Neff Annex  
University of Missouri  
School of Journalism  
Columbia, MO 65205  
Rosemary Armao, executive director  
(573) 882-2042  
www.ire.org

**Purpose:** Persons who report or edit in-depth journalism. Provides educational services, including computer-assisted reporting through its National Institute for Computer-Assisted Reporting.

## Journalism Association of Community Colleges

Los Angeles Pierce College  
6201 Winnetka Ave  
Woodland Hills, CA 91371  
Michael Cornner, executive secretary  
(818) 719-6427  
www.wvmced.cc.ca.us/wvc/jacc/jacc.htm/

**Purpose:** Journalism departments of two-year colleges. Conducts curriculum studies and research surveys and prepares promotional material on the journalism field for students.

## Journalism Education Association

Kansas State University  
103 Kedzie Hall  
Manhattan, KS 66506-1505  
Linda S. Puntney, executive director  
(913) 532-5532

**Purpose:** High school journalism teachers and advisers of high school publications. Works to promote the quality of scholastic publications and the teaching of media.

## Keller Center for the Study of the First Amendment

University of Colorado at Boulder  
Campus Box 333  
Boulder, CO 80309-0275  
(303) 492-8637

**Purpose:** To teach and write about the importance of the individual liberties outlined in the First Amendment to the operation of a free society. The center was estab-

lished through a donation from SPJ life member Leroy Keller.

**Legal Information Institute**  
Cornell University Law School  
601 Myron Taylor Hall  
Ithaca, NY 14853  
Tom Bruce, director  
(607) 255-1221  
[www.law.cornell.edu/statutes.html](http://www.law.cornell.edu/statutes.html)  
**Purpose:** Electronic publisher of legal information.

**Libel Defense Resource Center**  
404 Park Ave S  
16th Floor  
New York, NY 10016  
Sandra S. Baron, executive director  
(212) 889-2306  
**Purpose:** Provides support for media defendants in libel and privacy cases. Serves as a liaison with media organizations, attorneys and other groups to advance the defense of libel and privacy claims.

**Media Access Project**  
1707 L St NW  
Suite 400  
Washington, DC 20036  
Andrew Jay Schwartzman, executive director  
(202) 232-4300  
**Purpose:** Public interest law firm that works to assure that the print and electronic media inform the public fully and fairly on issues involving the political process. Has successfully used FOIA to obtain government information for clients.

**Media Coalition/Americans for Constitutional Freedom**  
139 Fulton St  
Suite 302  
New York, NY 10038  
Christopher M. Finan, executive director  
(212) 587-4025  
**Purpose:** Trade associations united to defend the First Amendment right to distribute books, magazines, recordings and videotapes. Monitors censorship legislation at the federal and state level.

**The Media Institute**  
1000 Potomac St NW  
Suite 301  
Washington, DC 20007  
Patrick D. Maines, president  
(202) 298-7512

[www.mediainst.org](http://www.mediainst.org)  
**Purpose:** Research foundation specializing in communications policy issues. Seeks to foster freedom of speech through filing court briefs and regulatory comments.

**National Association of Attorneys General**  
444 N Capitol St NW  
Washington, DC 20001  
Christine T. Milliken, executive director  
(202) 434-8024  
**Purpose:** Helps attorneys general fulfill the responsibilities of office. Assists in the delivery of high-quality legal service to the states and territorial jurisdictions. fosters interstate cooperation on legal and law enforcement issues, conducts policy research and analysis of issues, and facilitates communication between the states' chief legal offices in all levels of government.

**National Association of Broadcasters**  
1771 N St NW  
Washington, DC 20036  
Edward O. Fritts, CEO & President  
(202) 429-5300  
[www.nab.org](http://www.nab.org)  
**Purpose:** Serves the interests of broadcasters and the industry.

**National Association of Hispanic Journalists**  
National Press Building  
Suite 1193  
Washington, DC 20045  
Zita Arocha, executive director  
(202) 662-7145  
[nhj.org](http://nhj.org)  
**Purpose:** To further employment and career development for Hispanics working in the news media, to organize and provide mutual support for Hispanic journalists in English, Spanish, and bilingual media, to encourage the study and practice of journalism and mass communication by Hispanics, to promote fair treatment of Hispanics by news media, and to foster greater understanding of the culture, interest, and concerns of Hispanic journalists.

**National Audubon Society**  
700 Broadway  
New York, NY 10003  
John Flicker, president  
(212) 979-3000  
[www.audubon.org/audubon](http://www.audubon.org/audubon)  
**Purpose:** Works to conserve and

restore natural ecosystems, focusing on birds and other wildlife for the benefit of humanity and the earth's biological diversity.

**National Center for Freedom of Information Studies**  
Loyola University of Chicago  
820 N. Michigan Ave  
Chicago, IL 60611  
Edmund J. Rooney, founder  
(312) 915-6548  
**Purpose:** Serves as research and resource center promoting public interest in the protection of rights guaranteed by the First Amendment. Sponsors research on topics related to the Freedom of Information Act.

**National Coalition Against Censorship**  
275 Seventh Ave.  
New York, NY 10001  
Leanne Katz, executive director  
(212) 807-6222  
[www.ncac.org](http://www.ncac.org)  
**Purpose:** To defend freedom of thought, inquiry and expression. Promotes grass roots organizing against censorship, monitors and interprets litigation and legislation, and acts as a resource for educational materials and information about censorship activities.

**National Conference of Editorial Writers**  
6223 Executive Blvd  
Rockville, MD 20852  
Cora B. Everett, executive secretary  
(301) 984-3015  
[www.insl.net/ncew/](http://www.insl.net/ncew/)  
**Purpose:** Dedicated to stimulating the conscience and the quality of editorials.

**National Federation of Press Women**  
4510 West 89th Street  
Prairie Village, KS 66207-2282  
Ruth Anna, president  
(913) 341-0165  
[jackalope.lcc.whcn.edu/scc/cheyenne/nfpw/index.html](http://jackalope.lcc.whcn.edu/scc/cheyenne/nfpw/index.html)  
**Purpose:** Federation of state associations of professional women and men in all phases of communications on a full-time or freelance basis. Encourages the highest standards of professionalism in journalism.

**National Freedom of Information Coalition**

c/o Sue Hale, president  
Connect Oklahoma  
9000 N Broadway  
Oklahoma City, OK 73114  
(405) 475-3311  
[www.reporters.net/nfoic](http://www.reporters.net/nfoic)  
**Purpose:** NFOIC is a loose affiliation of the member state organizations.

**National Institute for Computer-Assisted Reporting**  
University of Missouri  
School of Journalism  
138 Neff Annex  
Columbia, MO 65211  
Brant Houston, managing director  
(573) 882-0684  
[www.nicar.org](http://www.nicar.org)  
**Purpose:** To provide data analysis and training in computer-assisted journalism, data negotiation techniques, and FOIA law guidance.

**National Lesbian and Gay Journalists Association**  
1718 M Street NW #245  
Washington, D.C. 20036  
Mike Frederickson, exec. director  
(202) 588-9888  
[www.journalism.sfsu.edu/nlgia.htm](http://www.journalism.sfsu.edu/nlgia.htm)

**National Newspaper Association**  
1525 Wilson Blvd  
Suite 550  
Arlington, VA 22209  
Tonda F. Rush, CEO  
(703) 907-7900  
[www.oweb.com/nna](http://www.oweb.com/nna)  
**Purpose:** Protect, promote and enhance America's community newspapers.

**National Press Club**  
National Press Building  
529 14th St NW  
Washington, DC 20045  
Gil Klein, president  
(202) 662-7500  
[npc.press.org](http://npc.press.org)  
**Purpose:** To provide people who gather and disseminate news with a center for the advancement of their professional standards and skills, the promotion of free expression, mutual support, and social fellowship.

**National Security Archive**  
George Washington University  
2130 H St NW  
Suite 701  
Washington, D.C. 20037

(202) 994-7000

www.seas.gwu.edu/nsarchive/  
**Purpose:** A non-profit research institute which houses government records (received under FOIA requests) on foreign affairs, intelligence, defense and international economic policy. Materials are published on microform with indices; extensive collection on-site.

#### National Wildlife Federation

1400 16th St NW  
 Washington, DC 20036-2266  
 Jay D. Hair, president  
 (202) 797-6800

**Purpose:** Encourages the intelligent management of the life-sustaining resources of the earth and promotes greater appreciation of these resources, their community relationship and wise use.

#### Natural Resources Defense Council

40 W 20th St  
 New York, NY 10011  
 John H. Adams, executive director  
 (212) 727-2700  
 www.nrdc.org

**Purpose:** Dedicated to the wise management of natural resources through research, public education and the development of public policies.

#### Newsletter Publishers Association

1501 Wilson Blvd.  
 Suite 509  
 Arlington, VA 22209  
 Patty Wysocki, executive director  
 (703) 527-2333  
 www.churchstreet.com/csp/npa/npa

**Purpose:** International trade association representing the interests of publishers of newsletters and specialized information services.

#### Newspaper Association Managers

70 Washington St  
 Suite 214  
 Salem, MA 01970  
 Morely Piper  
 (508) 744-8940  
**Purpose:** Full-time executives of national, state and regional newspaper associations.

#### Newspaper Association of America

National Press Building  
 529 14th St NW  
 Suite 440  
 Washington, DC 20045  
 John Sturm, senior vice president  
 (202) 638-4770  
 www.naa.org/  
**Purpose:** Represents the newspaper industry by focusing on marketing, public policy, diversity, industry development and newspaper operations.

#### The Newspaper Guild

8611 2nd Ave  
 Silver Spring, MD 20910  
 Linda K. Foley, president  
 (301) 585-2990

**Purpose:** Sponsors Newspaper Guild International Pension Fund which provides retirement benefits to persons employed in the news industry.

#### Nuclear Information and Resource Service

1424 16th St NW #404  
 Washington, DC 20036  
 Michael Mariotte, executive director  
 (202) 328-0002  
 www.nirs.org  
**Purpose:** Antinuclear grass roots groups and individuals. Facilitates FOIA requests.

#### OMB Watch

1742 Connecticut Ave NW  
 Washington, DC 20009  
 Gary D. Bass, Ph.D., director  
 (202) 234-8494  
 www.ombwatch.org/ombwatch.html

**Purpose:** Collects, researches and disseminates information on the Office of Management and Budget. Advocates for more public accountability and increased public knowledge of administrative government issues.

#### Office of Information and Privacy

U.S. Department of Justice  
 Flag Building  
 Suite 570  
 Washington, DC 20530  
 Dan Metcalf, co-director  
 Dick Huff, co-director  
 Peggy Irving, deputy director  
 (202) 514-4251  
 www.usdog.gov

**Purpose:** Addresses issues of information and privacy. A list of FOIA officers is available from the gopher site.

#### Ohio Center for Privacy & the First Amendment

Kent State University  
 School of Journalism and Mass Communications  
 130 Taylor Hall  
 Kent, OH 44242  
 Timothy Smith, director  
 (330) 672-2572  
 www.saed.kent.edu/jmc/cfp/

**Purpose:** Serves as a public resource on access issues and an educational center, and conducts research on privacy and First Amendment issues.

#### People for the American Way

2000 M St NW  
 Suite 400  
 Washington, DC 20036  
 Rebecca Isaacs, director of public policy  
 (202) 467-4999  
 www.pfaw.org  
**Purpose:** Nonpartisan constitutional liberties organization.

#### The Poynter Institute

801 3rd St S  
 St Petersburg, FL 33701  
 Karen Brown, associate director and dean of the faculty  
 (813) 821-9494  
 www.mando.net/prof/poynter.home.html

**Purpose:** Dedicated to teaching and inspiring journalists and media leaders. Promotes excellence and integrity in the practice of the craft and in the practical business.

#### Prisoners' Rights Union

P.O. Box 1019  
 Sacramento, CA 95812-1019  
 Gina Berry  
 (916) 441-4214

**Purpose:** Provide advocacy and support to prisoners and their families. Conducts lobbying activities and litigation assistance programs.

#### Project Censored

Sonoma State University  
 Dept. of Communication Studies  
 Rohnert Park, CA 94928  
 Carl Jensen, Ph.D., director  
 (707) 664-2500

**Purpose:** Seeks to explore and publicize the extent of censorship by locating stories of which the public is unaware.

#### Public Citizen

1600 20th St NW

Washington, DC 20009  
 Lucinda Sikes  
 (202) 588-1000  
 www.citizen.org/public\_citizen/litigation/litigation.html  
**Purpose:** Founded by Ralph Nader to support the work of citizen advocates. Methods for change include lobbying, litigation and monitoring government activities.

#### Quill and Scroll Society

University of Iowa  
 School of Journalism and Mass Communications  
 Iowa City, IA 52242  
 Richard P. Johns, executive director  
 (319) 335-5795

www.uiowa.edu/~quill-sc  
**Purpose:** Encourage and recognize individual student achievements in journalism, and promotes FOI and First Amendment issues, primarily at the high school level.

#### Radio-TV News Directors Association

1000 Connecticut Ave NW  
 Suite 615  
 Washington, DC 20036  
 David Bartlett, president  
 (202) 659-6510  
 www.rtnda.org/rtnda/  
**Purpose:** Professional society of heads of news departments for broadcast and cable stations and networks. Defends rights of journalists to access news.

#### Reporters Committee for Freedom of the Press

1101 Wilson Blvd.  
 Suite 1910  
 Arlington, VA 22209  
 Jane E. Kirtley, executive director  
 (703) 807-2100  
 www.rcfp.org/rcfp

**Purpose:** Devoted to upholding the First Amendment and protecting the freedom of information rights of the working press of all media. Provides legal resources and assistance to journalists dealing with situations affecting ability to gather information.

#### Save America's Forests

4 Library Ct SE  
 Washington, DC 20003  
 Carl Ross, co-director  
 (202) 544-9219  
**Purpose:** Coalition of groups, businesses and individuals united to pass national laws protecting forest ecosystems. Conducts lob-

# However ugly, public must see it

## Gavel-to-gavel coverage vital

BY LUCY DALGLISH

A couple of blocks from my law office, work is almost complete on what local federal judges proudly are calling "the most technologically advanced courthouse in the United States."

A recent bar association magazine article on the new Minneapolis federal courthouse certainly makes it sound like a technological wonder. Be-



neath the floor of each courtroom is a "power grid," a series of trenches spaced three feet apart to permit cable and electrical connections within three feet of any point in the courtroom. The courtrooms feature "smart" counsel tables that have fully integrated electrical and computer connections. Each table will be wired to the party's attorney-witness room, where counsel can position their litigation and computer support team.

tion about a procedural or scheduling question. Some see it as one more headache. Still others maintain it treads too close to committing an ethical violation.

A recurring problem has been created by electronic wizardry. Conference-call-capability allows a quick hearing without elaborate scheduling difficulties. They are time and cost effective. A court reporter is added easily with a speaker phone. Now is the time to define appropriate methods of notice and access to electronically-streamlined handling of historically public proceedings.

But, in the long run, these are minor problems. The most difficult issue clearly is definition and ethics. On the last day of a recent conference of judges and journalists, we faced the question of journalistic ethics. One panelist took the position that ultimately there is only one ethical rule a journalist must follow—to tell the truth.

It strikes me that one cannot define ethical responsibilities without arriving first at a consensus on purpose or role. Judges and attorneys have more objectively definable roles in society. Thus, our "role morality" or "professional ethic" is capable of definition. What's more, it is capable of enforcement.

Can the same be said for the journalist? Is the objective to inform the public or is it to inform the public in an entertaining

way so ratings can be maintained? If both, then which is favored when there is tension between the two?

Obviously, no court could impose a definition without trampling on the First Amendment, nor could it impose its powers to police a code of journalistic ethics. Philosophically, the idea of "professional ethics" or "role morality" seems antithetical to the most fundamental concept of freedom of speech and freedom of the press. Your idea of what is important is different from mine. Your vision of what is a truthful presentation is likely to be different. A more realistic foundation for journalistic decisions may be personal morality or personal ethics.

I don't place a great deal of stock in a code of ethics for journalists as a method of building bridges of trust with the judiciary. I say that not because I doubt the integrity of journalists. The very strength of our country lies in large part in the First Amendment because it nourishes individualism and generates different definitions of purpose, which, in turn, spawns judgments about what will be disseminated to the public. No code is worthy of print if it is unenforceable. But, enforcement is, by definition, the imposition of one's own views upon another. And, that is restraint.

Ultimately, it seems the future of electronic media in our courtrooms lies in

"Real time" online court reporting will be available instantly on the counsel table video screens. The jury box rails are fitted for high resolution video monitors where jurors will be able to see documents and other evidence at the same time it is shown to a witness. At her fingertips, a trial lawyer will have the ability to display almost any kind of evidence instantly by projector, broadcast hook-up, videotape, videodisk, slides and computer graphics.

Judge James M. Rosenbaum, the author of the magazine piece, concluded that "The 'futuristic' devices are unobtrusively incorporated into the physical fabric of the courtroom. It will look like the courtroom we all know, but it will do more, and it will allow the well-trained lawyer to work better."

Unfortunately, all the new technology won't do a thing to allow the public to better understand what goes on in those courtrooms. By now it's obvious what this sophisticated multi-million-dollar temple

education. Not legal education necessary to understand the nuances of each court ruling, but education in history, civics, philosophy and psychology to alert the journalist to the forces at work. For example, the publication of the attorney-client interview tapes acquired by Cable News Network in the Noriega case had enormous implications beyond the trial. Most laymen give very little thought to the importance of the attorney-client privilege. In fact, most see it as a scurrilous ploy by the attorney to protect an obviously guilty person. But if one really understands the importance of the attorney-client privilege to the continued freedom each of us enjoys, the breach of that confidentiality is as significant as prior restraint on free speech.

I do not suggest any devolution of power by the court or the news media. The day probably never will come when a judge will leave it to the responsible commentator to decide whether the story warrants the potential injury to the right to a fair trial. The journalist never will leave that decision to the judge. But if we keep talking, we just might learn something from each other. ■

*Judge William L. Howard now sits on the South Carolina appellate bench. He presided over the 1995 trial of Susan Smith.*

of justice is missing—any provision whatsoever for electronic media coverage of trials.

That's not the only irony. Acknowledging that courtroom galleries seldom are filled, public seating has been reduced from 100 seats in the existing Minneapolis courthouse to 65 in the new one. That doesn't mean the courtrooms will be smaller. The extra space will be turned over to the area in front of the bar, probably to give litigators more room to use all of their new whiz-bang gadgets. Yes, jurors will be able to see quite a show. But the public won't.

All talk of these technological wonders focuses on convenience and improved performance from the standpoint of the judge, attorneys and jury. There's not a word about what it could mean to the public. And that's too bad.

The late Supreme Court Justice Felix Frankfurter once said he longed for the day the media covered the Supreme Court as thoroughly as it did the World Series. Frankfurter understood why the Constitution guarantees every defendant will have a fair, *public* trial. "The public's confidence in the judiciary hinges on the public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system," he said.

There is no better way for the media to portray the courts than to show by television what happens in a courtroom.

Americans have forgotten the reason trials in this country traditionally have been open to the public. Criminal trials,

in particular, primarily are open for the protection of the defendant, not to inform or entertain the public. With public scrutiny, trials are much more likely to be fair, and justice more likely to be served. But, over time, discussion about fair trials has focused on how to limit information about a trial and how to limit who gets to see what goes on in a courtroom.

In 1980, Chief Justice Warren Burger wrote the majority opinion in a case involving a court that was closed to newspapers in Richmond, Virginia. His words ring especially true after recent highly publicized criminal trials involving O.J. Simpson, the Menendez brothers, Rodney King, Susan Smith and others: "People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing."

The only realistic way for the public to observe the courts in modern-day America is to allow electronic media coverage. Gone are the days when citizens would travel an entire day to the county seat to watch an important public event like the Scopes Monkey trial. These days, only those who have money and ample free time can travel to their closest courthouse to see justice in action.

At a recent conference of journalists, lawyers and judges at the National Judicial College in Reno, Nevada, there was near unanimity that American courtrooms should be presumed to be open to camera coverage. Everyone, however, acknowl-

edged that the O.J. Simpson trial (referred to by conference participants as "the late unpleasantness") probably has pushed the cameras in the courtroom movement back a decade.

What viewers saw during the Simpson trial often was sloppy, combative and unprofessional. But they saw what was really going on. Perhaps changes will be made in the way criminal trials are handled in California as a result of public scrutiny. It's important not to condemn televised court coverage because of one case. The Simpson trial was an aberration.

Viewers of Court TV routinely see talented, dedicated lawyers, judges and journalists who work hard to make sure justice is served. Several years ago, for example, the electronic media that covered the Jeffrey Dahmer trial in Milwaukee won praise from the judge for their professionalism. Two decades of experience televising important trials in Wisconsin proves that a high-profile trial does not have to turn into a circus.

Like it or not (and here in Minnesota, the bar generally does NOT like it) the public has become accustomed to seeing gavel-to-gavel televised coverage of important trials. I predict that the public eventually will insist on being able to watch trials. And those who are constructing courtrooms better be prepared for it. ■

*Lucy Dalglish is a former journalist and three-term FOI chair of SPJ. She now is an attorney specializing in media issues.*

## Judges opt for courtroom ban on cameras

The Society long has argued for cameras in the courtroom and was critical of the recent closing of O.J. Simpson's civil trial.

Superior Court Judge Hiroshi Fujisaki imposed the restrictions repeatedly citing the media coverage in the criminal trial.

The Los Angeles Times reported that Fujisaki's ruling "reflects a growing reluctance among judges to open their courtrooms to cameras, especially in high profile cases in which provocative sound bites, taken out of context, might sour the

public's perception of the judicial system."

By barring all electronic coverage, the judge also banned print reporters from using tape recorders.

Judges across the country have closed a number of high-profile cases to cameras including:

- The second prosecution of the Menendez brothers in California.

- The trial of Susan Smith for the murder of her two sons in South Carolina.

- The death penalty case in California of Richard Allen Davis accused of killing 12-year-old Polly Klaas.

- The trial of Yolanda Saldivar for the murder of the singer Selena in Texas.

In June, the California Judicial Council issued a revised rule giving judges total discretion to ban cameras from their court-

rooms.

The council rejected an outright ban, but forbid the broadcast or photography of jury selection, sidebar conferences, spectators or whispering at council tables.

Many court watchers and legal experts predicted that the council's order would result in complete courtroom bans in California.

"The public will likely be more skeptical of what it can't see or hear first-hand," said Kyle E. Niederpruem, Freedom of Information chairwoman for the Society.

"Judges are in control of the courtrooms, not journalists," she said. "Judges, including those in Indiana, which was one of three states to ban camera coverage, are beginning to figure out that the public wants to be a witness."

# TV cameras in state courts

All states that permit television, radio and photographic coverage of courtroom proceedings, whether on a permanent or experimental basis, have adopted rules or guidelines governing such coverage. The consent of the presiding judge is required in almost all states and the judge has discretion to control the coverage during the proceedings. Many states require advance written application for permission.

Coverage is prohibited in nearly all states with respect to cases involving juveniles, and most states prohibit coverage of victims of sex crimes, domestic relations cases and trials involving trade secrets. Voir Dire coverage generally is prohibited. Coverage of jurors either is prohibited or is restricted to prevent visual identification of jurors. Some states prohibit coverage of witnesses who appear under subpoena, and many states deny coverage

of victims or witnesses who object. All states ban coverage of conferences in court.

The guidelines generally include provisions with regard to media equipment, lights, number of media personnel, types of cameras, position of equipment operators and movement in the courtroom.

*The following summary was compiled by the Information Service of the National Center for State Courts and reprinted with permission. The center is at 300 Newport Avenue, Williamsburg, Virginia 23185. Phone: 804-253-2000. Fax: 804-220-0449. The information in these charts was last revised in March 1996. ■*

## States without TV in courts

States considering	States not permitting TV in the courts
None	Mississippi
	South Dakota

## Cameras in federal courts

On September 13, 1990, the Federal Judicial Conference approved a three-year experiment allowing cameras in two appellate courts and six district courts, beginning July 1, 1991. The experiment was limited to civil cases and gave judges total discretion to refuse, limit, or stop camera coverage. The report on the experiment recommended that coverage continue, but the Judicial Conference voted against coverage. Today, no cameras are allowed in the Supreme Court or the Federal District Courts. Two appellate courts in the federal system, the 2nd Circuit in New York and the 9th in San Francisco, allow cameras in the courtroom.

## States with experimental rules

	effective date	period	level	division
Delaware	5/1/82	extended indefinitely	Supreme Court	civil
Idaho <sup>1</sup>	1/4/82	extended indefinitely	Court of Appeals	
	2/15/95	to 2/15/96	trial courts	civil & criminal
Indiana	9/5/96	extended indefinitely	Supreme Court	civil & criminal
Minnesota <sup>1****</sup>	4/18/83	extended indefinitely	trial courts	civil & criminal
New Jersey <sup>1</sup>	1/3/84	indefinite	municipal courts	civil & criminal
New York <sup>1</sup>	6/23/92	to 6/30/97	trial courts	civil & criminal
Pennsylvania <sup>**</sup>	10/1/79	extended indefinitely	trial, non-jury	civil, superior court

<sup>1</sup> see permanent basis table

<sup>\*\*</sup> consent of some participants required

<sup>\*\*\*\*</sup> consent of all participants required

<sup>\*</sup> consent of accused required in criminal trials

<sup>\*\*\*</sup> no coverage of individuals who object





**States with permanent rules**

	Effective Date		Courts	
	experimental	permanent	level	division
Alabama		2/1/76	trial & appellate	civil & criminal*
Alaska	8/24/78	1/15/90	trial & appellate	civil & criminal
Arizona	5/31/79	7/1/83	trial & appellate	civil & criminal
Arkansas**	1/1/81	3/8/82	trial & appellate	civil & criminal
California	6/1/80	7/1/84	trial & appellate	civil & criminal
Colorado		2/27/56	trial & appellate	civil & criminal
Connecticut	1982	10/1/84	trial & appellate	civil & criminal
Florida	7/5/77	5/1/79	trial & appellate	civil & criminal
Georgia		5/12/77	trial & appellate	civil & criminal
Hawaii	1/1/84	12/7/87	trial & appellate	civil & criminal
Idaho <sup>1</sup>	12/4/78 10/9/79	8/27/79 10/1/80	Supreme Court in Boise Supreme Court on Circuit	
Illinois	1/1/84	1/22/85	Appellate	
Iowa	1/1/80	1/1/82	trial & appellate	civil & criminal
Kansas**	9/14/81	9/1/88	trial & appellate	civil & criminal
Kentucky		7/1/81	trial & appellate	civil & criminal
Louisiana****		4/30/85	appellate	
Maine***	4/2/82	8/1/94	trial	civil
Maryland**	1/1/81 1/1/81	7/1/84	appellate trial	civil
Massachusetts	4/1/80 6/1/80	1/1/83 1/1/83	appellate trial	
Michigan	2/1/88	1/13/89	trial & appellate	civil & criminal
Minnesota <sup>1</sup>	1/27/78	4/20/83	appellate	
Missouri	10/1/92 10/1/92	10/1/94 7/1/95	appellate ... trial	civil & criminal
Montana	4/1/78	4/18/80	trial & appellate	civil & criminal
Nebraska	10/1/82	1/18/85	appellate	
Nevada	4/1/80	4/29/88	trial & appellate	civil & criminal
New Hampshire		1/1/78	trial & appellate	civil & criminal
New Jersey <sup>1</sup>	5/1/79 5/1/79	10/8/80 6/9/81	appellate trial	
New Mexico	7/1/80	1/1/83	trial & appellate	civil & criminal
New York <sup>1</sup>		1/1/81	appellate	
North Carolina	10/18/82	7/25/90	trial & appellate	civil & criminal
North Dakota	2/1/79 9/1/88	7/1/80 7/1/95	Supreme Court trial	civil & criminal
Ohio***	6/1/79	1/1/82	trial & appellate	civil & criminal
Oklahoma***	1/1/79	2/22/82	trial & appellate	civil & criminal*
Oregon**	2/15/89	8/1/92	trial	civil & criminal
Rhode Island	10/1/81	3/8/93	trial & appellate	civil & criminal
South Carolina	10/1/92	9/21/93	trial & appellate	civil & criminal
Tennessee**	1/1/96-97	2/27/79	trial & appellate	civil & criminal
Texas****		1/1/90	trial & appellate	civil & criminal
Utah** <sup>2</sup>	1/1/88	8/30/91	Supreme Court	
Vermont	7/1/84	3/12/92	trial & appellate	civil & criminal
Virginia	7/1/87	7/1/92	trial & appellate	civil & criminal
Washington		9/20/76	trial & appellate	civil & criminal
West Virginia	1/1/79	5/28/81	trial & appellate	civil & criminal
Wisconsin	4/1/78	7/1/79	trial & appellate	civil & criminal
Wyoming	8/14/81	12/27/91	trial & appellate	civil & criminal

\*consent of accused required in criminal trials

\*\*consent of some participants required

\*\*\* no coverage of individuals who object

\*\*\*\* subject to approval of the individual court

<sup>1</sup> see experimental basis table

<sup>2</sup> still photos only in trial courts

# News media ducking fights

High court standing by First Amendment, but uneasy companies avoid big battles

BY TONY MAURO

**T**he First Amendment continues to fare well before the Supreme Court. In the term that ended July 1, on core issues of freedom of speech and association, the court spoke often and with relative unanimity, strongly embracing First Amendment values.

"This term was further confirmation that the one area where the court has its head on straight is the First Amendment," said Harvard law professor Laurence Tribe.

"In all five major First Amendment decisions this term, free expression won full or partial victories," said Elliot Mincberg, legal director of People for the American Way.

Yet none of those cases involved traditional freedom of the press issues. For the fifth consecutive term, the high court has not handed down a major ruling on press freedom, and none is on the horizon.

That paucity of cases is not necessarily an accident, however.

First Amendment lawyers suggest that broadcast and print news organizations that might have taken their cases to the Supreme Court—or been dragged there by the other side—are ending their disputes before they get to the nation's highest court.

Why? Part of the reason is fear that the court won't rule in the news media's favor—even though the court's embrace of the First Amendment in general seems unquestioned. Though areas of media law

such as libel, access to courts and reporters' privilege are regarded as "settled law," media lawyers are reluctant to press their luck by forcing the court to re-examine the issues.

"I'm not at all sure the court would get it right," said one media lawyer who wanted to remain anonymous. The high court, even though it is supposed to be insulated from the tides of public opinion, cannot be unaware of the unpopularity of the news media in society today. The justices might leap at the chance to rein in the excesses of the news media if given a chance.

Other factors cited by media lawyers are money and fear. High litigation costs have caused budget-crunched media companies to think twice before taking on major First Amendment cases.

Broadcasters, especially, calculate that they would rather not take on the FCC right now, at a time when the FCC controls so many high-stakes telecommunications issues that could make or break their companies.

One lawyer said that in years past, broadcasters might have taken the government to court over issues of editorial control such as mandated children's television programming and the V-chip. "They don't want to antagonize the FCC right now," the lawyer said.

The Supreme Court will be considering one issue of editorial control this fall that was clearly financially worth fighting over for broadcasters: the so-called

“must-carry rule” that requires cable operators to carry the signals of local over-the-air stations.”

Another media-related issue that the court is likely to consider is the constitutionality of the Communications Decency Act, the law signed last February that restricts the transmission of indecent material to Internet areas accessible by children. Two federal court panels have said it violates the First Amendment, and the Justice Department is appealing directly to the Supreme Court. The court is likely to strike down the law because its wording restricts access to many materials that are constitutionally protected.

Here is a recap of the major First Amendment decisions of the Supreme Court last term:

#### **44 Liquormart v. Rhode Island No. 94-1140**

The court's May 13 opinion was unanimous on the bottom line: Rhode Island's categorical ban on the advertising of liquor prices violates the First Amendment. And the Twenty-First Amendment, which gives states considerable power to regulate alcohol, doesn't save the law. But the justices arrived at their result in different ways. Justices John Paul Stevens, Anthony Kennedy, David Souter and Ruth Bader Ginsburg appeared to adopt a stricter standard for reviewing regulation of commercial speech than the so-called “Central Hudson test” adopted in 1980, which takes into account whether the government's interest is substantial, the regulation is limited, and the advertising is lawful and not misleading. Justices Sandra Day O'Connor, Stephen Breyer and Chief Justice William Rehnquist appeared content to apply Central Hudson to strike down the law. Justice Antonin Scalia said he didn't much like Central Hudson but agreed with the judgment. And Justice Clarence Thomas said Central Hudson doesn't protect commercial speech enough.

#### **Colorado Republican Federal Campaign Committee v. FEC No. 95-489**

The court on June 26 struck down a part of federal election law that limits political party expenditures made independently of a particular candidate. The law violated the free speech rights of parties, the court agreed. Justices Breyer, O'Connor and Souter agreed on this limited result,

but four other justices – Kennedy, Rehnquist, Scalia and Thomas – would have gone further and struck down limits on “coordinated” expenditures by parties as well. Justices Stevens and Ginsburg dissented, arguing that the regulations are needed to prevent corruption and promote a level “electoral playing field.”

#### **Denver Area Educational Telecommunications Consortium v. FCC No. 95-124**

Again led by Justice Breyer, the court in splintered fashion struck down two provisions of a law restricting indecent programming on cable television. The provisions would have required cable operators to segregate indecent material on public access channels. Another provision, which allowed cable operators to refuse to carry such material, was upheld. Justices Ginsburg and Kennedy would have struck down the entire law, and Justices Rehnquist and Scalia would have upheld it all.

#### **Board of County Commissioners v. Umbehr, No. 94-1654, and O'Hare Truck Service v. City of Northlake, No. 95-191**

In two separate cases posing related questions, the court clearly extended First Amendment protection to thousands of government contractors—protection already enjoyed in most instances by government employees. The Umbehr case was a free speech challenge to a Kansas county's firing of an independent trash hauler who criticized local government. O'Hare claimed that its rights of political association were violated when the local government stopped giving it towing work after the owner campaigned for the mayor's opponent. Both decisions were made by 7-2 majorities, with Justices Scalia and Thomas in dissent. The dissenters argued the court was going beyond its authority to end time-honored traditions of political patronage.

Several of the rulings may have far-reaching consequences in the years to come.

The decision with the biggest possible impact is 44 Liquormart v. Rhode Island. The decision's strong reaffirmation of commercial speech rights for lawful products is likely to place obstacles in the path of efforts by President Clinton and the Food and Drug Administration to restrict tobacco advertising.

That likelihood grew stronger on the

final day of the court term when the justices remanded to a lower court a Baltimore case involving that city's ordinances restricting billboard advertising for tobacco products. The justices told the lower court to review its support of those restrictions in light of the 44 Liquormart ruling.

The court's actions “send the unambiguous message that the court will not tolerate government attempts to restrict the First Amendment liberty of commercial speech,” said John Fithian of the Freedom to Advertise Coalition, and “highlight the unconstitutional nature of the FDA proposal.”

The FDA proposals would prohibit a range of advertising methods for tobacco, including sponsorship of sports events and billboards.

After the court's action in the Baltimore case, a White House spokesman said, “The ruling by the court in no way jeopardizes the proposed rule that the FDA has promulgated.” He said the proposed restrictions are “fully consistent” with the 44 Liquormart decision, because they don't constitute a total ban on advertising.

The cable indecency ruling was watched to see what it portends for the court's ultimate disposition of the cyberporn law.

Some commentators said the Supreme Court ruling, even though it struck down several restrictions on cable programming, could be an omen of future trouble in the cyberporn case.

Unlike the Philadelphia court's sweeping rejection of the cyberporn law, Breyer's decision in the cable case was piecemeal and careful, and gave considerable deference to the government's aim and to restricting children's access to adult cable programs. Breyer also treated cable almost as if it were a new medium with untested boundaries—even though the court's first ruling on the cable industry came 25 years ago. Its tentative approach left some wondering how the court will deal with a truly new and evolving medium like the Internet.

“It was mostly good,” said Marjorie Heins of the ACLU. “It told Congress it can't avoid the First Amendment by telling others to do the censoring.” She said the high court would be likely to take a harder line against the cyberporn law, which calls for criminal penalties, than it did with the cable regulations.

But Cathy Cleaver of the Family Research Council, which supports the cyberporn law, said the court's cable rul-

ing "greatly increases the likelihood of a reversal of the Philadelphia decision."

The court's ruling on campaign spending will have major impact on future elections. Current federal election law, passed in the post-Watergate era, restricts the amount of money political parties can spend on a particular candidate's campaign.

But the Supreme Court ruled that the law violates the free speech rights of parties, at least when it comes to party

expenditures made independently of the candidates. Campaign reform advocates say there is no such thing as an "independent" campaign expenditure by a party, but the court now says there is.

Though there is disagreement over the meaning of the decision, it appears that parties will be able to spend unlimited amounts to help a candidate—so long as they don't discuss what they are doing with the candidate.

"It's an almost incoherent concept," said

Don Simon of Common Cause.

But beyond the specifics of the decision, it symbolized an important reaffirmation of the importance of First Amendment principles even in the face of reform-minded efforts to reduce corruption and special-interest influence in elections. ■

*Tony Mauro covers the Supreme Court and legal issues for USA Today.*

## Indiana Supreme Court begins experimental courtroom coverage

About 100 people packed a civic hearing room in Evansville, Indiana, early in September to watch history in the making.

For the first time, five supreme court justices heard oral arguments in a death penalty case that was broadcast on television.

Indiana has had the distinction of being one of only three states in the nation to ban cameras in the courtroom.

Mississippi and South Dakota continue to bar camera coverage.

Indiana Chief Justice Randall T. Shepard said the experimental coverage likely will continue into 1997.

"It was a little unnerving to have substantial batteries of working press," said Shepard. "The live audience was larger and more diverse than I expected. Every available seat was taken. Schools groups came."

Shepard admitted that such large crowds usually do not attend the staid hearings of the supreme court.

The city's civic center was selected for several reasons—one of which was a logistical issue of how to accommodate five justices in a judicial setting. If a courtroom had been borrowed, there would only have been one seat at the bench.

The setting also was more accommodating because it already was wired for sound and camera hook-ups.

"I don't think any of us knew quite what to expect. It worked out quite well. The period of negotiating (with press groups) was time well spent. All the local organizations had to work out who was

going to be in the pool and whose equipment would be used."

Shepard said five television stations, two newspapers and three radio stations covered the hearing, which lasted about an hour.

But, Shepard said, he wasn't willing to commit to camera coverage in the state trial courts. There the setting is entirely different—days of testimony, many witnesses, and juries.

"We have no intention at the moment of making any change in trial courts," he said after the history-making hearing.

"I think the legal profession is divided on this question. A small number of people have said favorable things to me—but I don't regard that as scientific.

"The high-profile trials like (Erik and Lyle) Menendez and (O.J.) Simpson have led many people, including me, to be more cautious."

In 1987, the state's highest court rejected a petition filed by news media organizations—including two state chapters of the Society of Professional Journalists—seeking approval to use cameras.

But, there has been turnover in the court since.

The chief justice said there was nothing "magic" about the timing of his decision to allow for experimental coverage now.

"I've always anticipated we'd be re-examining this question from time to time. People's attitudes evolve. At this time, there's a willingness by the court."

## Oklahoma media ask to attend bombing trial

A group of Oklahoma news media is asking to attend the Oklahoma City closed-circuit television broadcast of the criminal trial of Timothy McVeigh and Terry Nichols.

The Oklahoma City bombing trial will be in Denver. No date has been set. McVeigh and Nichols are charged with the April 19, 1995, truck bombing of the Oklahoma City federal building where 168 people were killed and 500 others injured.

U.S. District Judge Richard P. Matsch ruled July 15 that he would allow a closed-circuit trial telecast in Oklahoma City, but only if the transmission were protected from piracy.

At presstime, he had not made a final ruling on the possible electronic courtroom that may be set up in Oklahoma City federal courthouse.

Michael Minnis, representing a group of Oklahoma print and electronic media, said the Oklahoma-based news organizations fit the criteria outlined in the 1996 federal anti-terrorism law that allows the closed-circuit feed. The law calls for the presiding trial judge to determine who is qualified to view the telecast.

The law that leaves room for legal debate states that anyone with "compelling interest" to view the trial could be included.

Prosecutors argue the law was written to benefit victims and that Judge Matsch should limit qualified spectators to those who can prove direct financial, emotional, or physical harm from the bomb blast.

The news media group said such an interpretation contradicts the Constitution's call for public trials. The public and the press cannot be denied access to a criminal trial unless there are extraordinary circumstances, the group's brief said.

# FACS Backgrounder

A Briefing Paper for Journalists Published by the Foundation for American Communications

Joseph L. Walker established and was editor/publisher of the *Endocrine/Estrogen Letter*, a bi-weekly newsletter covering the endocrine issue, from October 1995 through March 1996. He is a former daily newspaper reporter and editor. Before launching the newsletter, he was associate director of communications for the Washington-based Chemical Manufacturers Association's (CMA's) Chlorine Chemistry Council (CCC), where he was involved with the endocrine issue. Mr. Walker is an external liaison representative for the Washington-based American



Petroleum Institute. A native of Pittsburgh, he has a bachelor's degree in Journalism and

Communications (summa cum laude) from Point Park College, Pittsburgh.

The Foundation for American Communications is an independent, nonprofit institution providing education for journalists. Since 1979, 8,500 journalists have attended more than 195 FACS mid-career educational conferences sponsored by news organizations and philanthropic foundations.

This *FACS Backgrounder* is one of a continuing series of briefing papers published to help journalists better understand and report complex issues.

*FACS Backgrounders* are a regular feature of this magazine.

## Gender-Bending Chemicals:

### Keeping Your Cool as You Cover a Hot Issue

*This NewsBackgrounder addresses one of the most perplexing environmental phenomena since Rachel Carson raised the pesticide alarm in the 1960s. Are chemicals in the air, water and soil destroying the balance of hormones that people and animals need for normal growth, development and reproduction? Reports have surfaced about ambiguous sexuality and delayed sexual maturity in many wildlife species, declining sperm count in human males and increasing rates of human testicular and breast cancer. Many scientists believe that some chemicals literally mimic or block regular hormone activity. Others are skeptical of such links. The controversy raises new challenges for journalists who want to understand the science behind the story.*

By Joseph L. Walker

"Silent Sperm"... "Chemicals: The Great Impostors"... "What's Wrong With Our Sperm?" The stuff of tabloids? Hardly. These headlines appeared, respectively, in *The New Yorker*, *Newsweek* and *Time* earlier this year. They introduced stories about the intensifying debate over whether chemicals in the environment are wreaking havoc on human reproduction and causing a host of other problems.

What has brought the issue into sharp focus is a book published in April, 1996. *Our Stolen Future* suggests (according to the dust jacket) that human "fertility, intelligence and survival" may be at risk from chemicals found all around us. Health problems suggested to result from endocrine disruption include breast, prostate and testicular cancers, reduced sperm count and male sexual anomalies, endometriosis (inflammation of the uterine lining), and early childhood learning deficiencies. The notion that extremely low levels of chemicals all around us — in drinking water and food — may be doing such damage is a provocative and alarming one indeed.

The issue is not a new one. Over the past 40 years numerous studies have shown the potential for chemicals in the environment — natural as well as manmade — to mimic hormones. But until recently, few but a handful of scientists and environmental "wonks" paid much attention. *Our Stolen Future*, bolstered by a high-powered media campaign, fired the endocrine issue into the public consciousness.

Studies indicating a relationship between chemicals and endocrine disruption began to appear in the 1950s. Data showed reproductive risks to birds from residues of DDT; it

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caused eggshells to thin. Rachel Carson's landmark book, *Silent Spring*, brought the results to wide public attention. DDT was banned. Residues decreased, eggshells thickened and reproductivity increased. Many thought the problem was solved. But over the ensuing years scientists continued to explore the relationship between chemicals and the endocrine system. (*Our Stolen Future's* opening chapter details much of this work.)

The issue regained momentum in 1991 when scientists at a Wisconsin conference reported a host of effects on wildlife from hormone-mimicking chemicals. The conference, dubbed Wingspread I, was organized by zoologist Theodora Colborn, who later would become lead author of *Our Stolen Future*. A consensus statement from the conference stated: "We are certain [that] a large number of man-made chemicals that have been released into the environment, as well as a few natural ones, have the potential to disrupt the endocrine system of animals, including humans. Among these are the persistent, bioaccumulative organohalogen compounds that include some pesticides... and industrial chemicals, other synthetic products, and some metals."

The last several years have witnessed a parade of new science. A famous study found that chemicals in Florida's polluted Lake Apopka caused abnormally small alligator penises. Others linked certain chemicals to breast cancer and endometriosis and suggested that environmental factors may be reducing human sperm count, causing deformities in male genitalia, and certain deficiencies in babies of mothers who ate contaminated rice oil and Great Lakes fish.

Widely used chemicals cited as possible endocrine disrupters include pesticides (fungicides, herbicides and insecticides), various plastic materials, solvents, and ingredients used in cosmetics, soaps and detergents. Examples: (1) Bisphenol A is used to add plastic qualities to literally thousands of products ranging from food can linings to dental sealants; (2) nonylphenols are ingredients in products ranging from detergents to cosmetics; (3) PVC (polyvinyl chloride) plastic has been singled out; this chlorine-based plastic is used in products from house siding to food wrap. Other suspect compounds include dioxin (an unwanted byproduct of chemical processes involving chlorine and heat), polychlorinated biphenyls (PCBs), and pesticides. When *The New Yorker* covered the issue earlier this year, it reported no less than 37 possible causes for endocrine disruption, including lifestyle choices (smoking, types of food), stress, style of underwear, genetic differences in ethnic stock, and even global warming.

As the debate continues, new science is being published almost daily, with no end in sight. The U.S. Environmental Protection Agency, National Institute for Environmental

Health Sciences, National Research Council, Chemical Industry Institute of Toxicology, International Joint Commission of the United States and Canada, and many other groups are looking into the matter. Literally, hundreds of scientists are involved. Even Vice President Al Gore got into the act; he wrote an impassioned forward to *Our Stolen Future*. It is apparent that the endocrine debate will be with us for years to come, and that journalists will be called upon to report. If ever an issue called for cool demeanor and detached approach, this is the one.

## The Endocrine System: What Is It?

Nearly all bodily activities are regulated and controlled in part by endocrine glands, which secrete hormones directly into the blood stream. Even a small amount of hormone may produce a major effect on such activities as growth and development, tissue nutrition, rhythms of sexual function, muscular tone and resistance to fatigue.

Major endocrine glands include pituitary, parathyroids, thyroid, adrenals, pancreas, ovaries and testes. Production of natural hormones is regulated by emotions, as well as by physical condition. Thus, they act as mediators between mind and body. Perhaps the most commonly known endocrine-related condition is *diabetes mellitus* (juvenile diabetes), in which the body's cells are either unable to obtain adequate amounts of the hormone insulin from the pancreas (islets of Langerhans) or to utilize it.

Most questions being raised today concern the potential for chemicals in the environment to mimic the female hormone estrogen or to act against the male hormone androgen (anti-androgens). Estrogen prepares the female body for pregnancy, childbirth and motherhood, and it affects secondary sexual characteristics (menstruation, breast development). Androgen develops and maintains masculine characteristics.

## Current Thinking on Hormone Disrupters

Hormones can be thought of as "keys" that travel through the body until they find the right receptor or "lock" to fit into. When the hormone "key" enters its receptor "lock," this hormone-receptor complex binds to specific parts of the DNA, triggering a wide range of cellular functions — proliferation, differentiation, or a cascade of events. The suggestion regarding chemicals in the environment is that they mimic the natural hormones in this process and alter messages directing the cell's functions or that alter the metabolism. Hormones operate at extremely low levels and hormone mimics are thought to do likewise.

Confounding the situation is that humans are exposed to far greater quantities of natural hormone mimics than synthetic ones. Foods like broccoli, corn, kidney beans, soybeans and wheat deliver potent doses of hormone mimics on a daily basis. In December 1995, the U.S. Food and Drug Administration ran a four-day conference focusing solely on these plant estrogens or "phytoestrogens," many of which have beneficial effects on humans.

Much of today's speculation concerning chemicals and humans stems from an accidental human health experiment that occurred in the 1960s and 1970s with the potent synthetic estrogen DES (diethylstilbestrol). DES was used to prevent miscarriages for two decades before being banned in 1971 after it was linked to a rare vaginal cancer in the daughters of women who took it. In addition, urogenital anomalies were reported in male offspring of those same mothers. (A more recent study showed that these sons have not had difficulty becoming fathers themselves.) But the question remains, if DES can cause problems, why not other chemicals that behave similarly?

## Endocrine Issue Players

### Business and Industry

The endocrine debate has implications for a wide range of industries and their downstream customers. Of course, the chemical industry is deeply concerned. The Chemical Manufacturers Association (CMA) is coordinating an effort with other trade groups to respond to public perception and policy aspects. In addition, the industry-funded Chemical Industry Institute of Toxicology is spending \$1.5 million a year to study endocrine toxicology. CMA's Chlorine Chemistry Council is developing a multi-million-dollar research program to address questions about chlorine-containing products that have been implicated.

Other sectors with an interest include pesticides, plastics, pulp and paper, grocery/food, household products, cosmetics and oil. In general, industry's public posture has been reactive; none of the individual sectors wants it to become "our issue."

## Coverage Tips: A Reporter's Dozen

Apart from the usual, what elements should journalists consider when reporting on the endocrine issue? Here are several that come to mind:

- 1 Review the breadth of scientific literature;** at least the abstracts. Determine if there are conflicting studies and how they may counterbalance each other.
- 2 Consider the publication** in which a scientific report appears. Authors can pay to have "scientific findings" published, even in some peer-reviewed journals.
- 3 Consider agendas.** Seek out those authorities who best represent the middle ground, rather than merely pitting the alarmists against those who contend there is little to worry about.
- 4 Bone up as much as possible.** This is an extremely complex subject. A piece like this one barely scratches the surface.
- 5 Use the internet.** Professionals involved with the endocrine issue seem to be big on the internet; there is a wealth of information out there from scientific, environmental, industry and government groups for those willing to dig a little. Many key organizations have Web sites, and some even include texts of major journals.
- 6 Get on news distribution lists** of critical organizations, and then touch base with key players on a regular basis.
- 7 Obtain human health and mortality information** from places like the National Cancer Institute or Centers for Disease Control and Prevention. Never accept at face value health information from organizations with a stake in the debate. Moreover, dig behind health statistics to determine what they really mean. Are breast and prostate cancers figures on the rise because of some environmental influence? Or is it because people are living longer and more detection is going on?
- 8 Report scientific uncertainties.** Endocrine disruption science truly is embryonic. There are not even generally agreed-upon protocols for testing materials' estrogenicity.
- 9 Consider the relevance** (or lack thereof) of animal findings to humans. Reptile endocrine systems are vastly different from humans, while many scientists believe that mice serve as fairly reliable stand-ins. Deformed creatures in a highly polluted lake may give tragic testimony to poor past environmental stewardship, but such situations may bear little relevance to responsible handling of materials today.
- 10 Keep in mind** that a number of compounds suspected of causing endocrine problems already have been banned in the United States, and that environmental levels of these persistent toxics are decreasing. The argument that the problem may be largely historic is not spurious.
- 11 Seek out those who offer realistic solutions.** Be wary of those who want to solve the "endocrine disruption problem" by curtailing products that are foundations of modern society or by convincing people to make major lifestyle changes. Neither is going to happen.
- 12 Read *Our Stolen Future*.** The authors are on a mission. Nonetheless, the book is an easy-read primer on an issue that is only going to get more important over the next few years.

## Environmental Community

Among environmentalists, the Washington-based World Wildlife Fund (WWF) — in the person of *Our Stolen Future* lead author Theo Colborn — largely is responsible for thrusting the issue into the public spotlight. Colborn is a WWF senior scientist. Her work and the book received funding from the W. Alton Jones Foundation, which supports efforts to protect the earth's life support system from environmental harm. Co-author John Peterson Myers, a zoologist like Colborn, is director of the Jones Foundation. The book's third author is Dianne Dumanoski, an environmental reporter with *The Boston Globe*. As the issue has gained momentum, other environmental groups have gravitated to it.

## Scientific Community

The National Research Council's Committee on Hormone-Related Toxicants in the Environment, which is developing a major report on the subject for release in early 1997, comprises a cross-section of scientists involved with the issue. The NRC study, chaired by Ernst Knobil of the University of Texas-Houston Medical School, is attempting to reach a consensus among divergent views.

*A longer and considerably more detailed version of this NewsBackgrounder, with source tips, can be found in the Reporting Tools section of FACSNET (<http://www.facsnet.org>).*

## What Journalists Should Keep In Mind

The easiest trap for journalists to fall into on the endocrine issue is to report studies that suggest the possibility of a link between chemicals and endocrine effects as if they were studies that demonstrate that chemicals have an effect. The possibility of a link is conjecture; theories suggesting a link represent one step in the scientific process. There are many theories. Demonstrating that chemicals have an effect requires incontrovertible scientific evidence; theories that have been proven through rigorous science investigation.

"Links" make for a good story today, but only infrequently pan out into cause-and-effect relationships tomorrow. Unfortunately, reported "links" frighten a lot of people and lather up the policy shapers and makers, who do not understand the difference either. My advice is to approach with a healthy dose of skepticism any news release or report purporting a "link," "association" or "correlation" between chemicals and endocrine effects. Watch for those where causal relationships are proven.

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**SPJ**



# Prisoner access just gets tougher

Gatekeepers shutting doors across the nation  
as state officials keep inmate voices quieter

BY TRACEY S. RYNIEC

**B**lame it on O.J. Simpson. California long has been the source of well-known inmates from Charles Manson to Richard Ramirez, but the Simpson trial apparently touched a nerve with California prison officials.

While the trial was ongoing, dozens of reporters were signing up for the opportunity to interview a convicted Simpson from prison. The California Department of Corrections originally said it didn't want to make news media celebrities out of inmates or give them a soapbox to air their views.

Corrections Director James H. Gomez expressed the view the media showed little restraint in glamorizing crime and criminals. It's the news media's own fault somewhat, said Pia Hinckle, former managing editor of the San Francisco Bay Guardian. The news media have focused on celebrity profiles instead of prison issues.

As the criticism heated up, corrections shifted away from its original reason of not wanting to glamorize criminals and added that the change was also because of lack of staff and a concern for security. "There are a number of factors that went

into the regulation change," said J.P. Tremblay, a spokesman for corrections. "We do not want to be in the position to arrange interviews to give inmates publicity. We believe this traumatizes victims. We believe the interviews are counter to rehabilitation and there are security concerns."

Peter Sussman, president of the Northern California chapter of SPJ, is a proponent of prison access for the news media. He dismisses the reasons given by corrections, including the burden put on the staff from infotainment shows, as mere excuses.

Prison officials usually defined infotainment shows broadly, to include what would be considered legitimate news shows, such as 60 Minutes and 20/20. In April, in response to news media questions, the corrections department said only 100 to 200 requests for face-to-face interviews were received each year.

"I don't know offhand the number [of requests for interviews]," Tremblay said. "Those numbers could have been from a couple of years ago. It's been going up every year."

In a system with 31 prisons and 137,000 inmates, if those first numbers are correct, that's

# Where access is under fire

## California

Proposed regulation would eliminate the confidential status of inmate-media correspondence and would allow only random face-to-face interviews with inmates while on a tour of a prison facility. Inmates would not be able to participate in specific-person face-to-face interviews.

Reporters may be placed on an inmate's visiting list, which would allow them to speak face-to-face to the inmate during general visiting hours. Reporters would not be allowed to take notebooks, cameras, or a tape recorder to the visit.

## Rhode Island

Media access at the discretion of the prison administrators. If a face-to-face interview is granted, the specific topic and line of questioning must be submitted to prison officials before the interview. A prison official will sit in on the interview and if the line of questioning diverges from that submitted before the start of the interview, prison officials reserve the right to terminate the interview.

## Virginia

The media are granted access to the prisons and inmates at the discretion of the director of corrections on a case-by-case basis. Telephone interviews are allowed. Mail correspondence is allowed.

## Indiana

No more than five in-person interviews will be permitted within a seven-day period for inmates. The facility head has the right to deny any request to interview based on security, medical, or other administrative reasons. Infotainment publications and broadcasts are restricted from department facilities with-

out the commissioner's prior written approval. The media will be granted interviews with death row inmates only once every 90 days. Three days before a scheduled execution, a media pool will be allowed to interview the condemned inmate.

## Missouri

The District Court in *Sidebottom vs. Schiriro*, No. 4:96 CV844 SNL, 1996 U.S. Dist. Lexis 7220 (E.D. Mo. May 23, 1996) rejected the media's request for a preliminary injunction that would have allowed the media to conduct video face-to-face interviews with inmates. Policy now prohibits the interviews. The court said that because there were alternative means of communication between inmates and the media, there were no constitutional rights violated by the ban.

## Illinois

Decided not to pass a complete prohibition of face-to-face interviews with death row inmates but instead modified its regulation. It now permits face-to-face interviews with death row inmates only if authorized by the director.

## Federal prisons

Upon notification by the attorney general, the head of a federal law enforcement agency, or the head of a member agency of the United States intelligence community, that there is a substantial risk that an inmate's communications could result in death or serious bodily injury, the warden can implement special administrative procedures including housing an inmate in administrative detention in 120-day increments that can be renewed indefinitely if the original circumstances continue to exist, limiting correspondence, visiting, interviews with the news media, or telephone use.

only about six or seven interviews per prison per year. Yet Tremblay insisted the system is bursting at the seams and just doesn't have the resources to deal with the reporters. He cited as an example a June 1996 Barbara Walters *20/20* interview with the recently convicted Menendez brothers in an L.A. County jail. (The county jails determine their own media access policies.) During the interview, a guard was posted in the room. "See all the staff it took," Tremblay said.

L.A. County sheriff's Deputy Fidel Gonzales said the visits with journalists are set like any other. "The attorney has to OK it" and the county jail arranges it. L.A. County jails average 18,000 to 20,000 inmates daily and are under "severe budget constraints," said Gonzales. Yet, the county

jails have placed few restrictions on access. They will deny a request if the inmate has medical problems, is a mental patient, or is a federal prisoner. All other requests go through the inmate's attorney, who makes the decision.

There is a legitimate argument about staffing problems, Hinckle said, but corrections already has the power to restrict the number of interviews. "They didn't need the change in regulation to stop the infotainment shows from coming into the system," Hinckle said.

Other states have handled the blurring lines between news and entertainment shows differently.

In Indiana, infotainment shows are banned but there is an exception. Pam Pat- tison, public information officer for the

Indiana Department of Correction, said the decision on infotainment rests solely with the commissioner. The corrections department defines infotainment as "publications or broadcasts that focus on sensational topics and do not represent bona fide news programs." She clarifies the definition. "Shows like *20/20* and *Prime Time Live* are not considered infotainment. But we have turned down Geraldo."

Since the policy was enacted in July 1995, corrections has had only one request for an interview from an infotainment show—the request from Geraldo.

Most believe the issue in California is more than just the glamorizing of inmates. The corrections department has an annual budget of \$3.4 billion, the largest in the world, and growing.

"They're nervous," Hinckle said. "They're putting another prison bond on the ballot. People should know where their money is spent."

"The corrections department is under attack" Sussman said. "They just lost two lawsuits dealing with treatment inside the prisons. Speculation is that they don't want inmates talking to the news media."

Ray Telles, a freelance producer who has done work for Dateline NBC as well as for ABC and PBS shows, agrees. "I told the CDC that I was with Dateline and their public relations guy said they wanted to let in only legitimate news organizations," he said. "I explained that I was with the NBC News division, not a tabloid. They're muzzling us."

The California policy, if it goes into permanent effect, would allow face-to-face interviews with random inmates if the media encounter the inmate during a "tour" of a facility. A reporter may be placed on the inmate's visitor's list, which allows face-to-face conversation during general visiting hours, but the reporter may not bring in any materials, such as a notebook, camera, or tape recorder.

The corrections department said the news media can find out what is going on inside prisons by talking with family, friends, and attorneys who regularly visit inmates.

Indirect contact through family is more like rumor, not reporting, Sussman said. "The CDC should be more concerned about rumors causing security problems. They're more disruptive."

Reporters consider random interviews with inmates to be a sham. "This happened recently with Ellie Nester [a woman convicted of shooting in the courthouse the man who allegedly molested her son]. The reporter was walking by and Ellie agreed to the interview," Tremblay said.

"No broadcast news organization is going to send in a crew randomly on the hope that they might get lucky and a Menendez brother might be standing there. It costs too much for broadcasters [to pay for the crew time]," Telles said.

California is not alone in restricting prison access to journalists. According to a May 1996 survey conducted by the Association of State Correctional Administrators, 39 of 42 who answered the survey allowed inmates to have face-to-face interviews with the news media. But these numbers can be misleading. Face-

## Law of the Land

### **Pell v. Procunier , 417 U.S. 817 (1974)**

The lawsuit was a challenge to the California Department of Corrections Manual that prohibited interviews with specific individual inmates.

The Supreme Court stated that "[s]o long as reasonable and effective means of communication remain open and no discrimination in terms of content is involved, we believe that, in drawing such lines, 'prison officials must be accorded latitude.'" Pell at 826 (citation omitted).

The court stated that there is no constitutional right of access to prisons or their inmates beyond that afforded the general public and held there was no violation of the First Amendment.

### **Turner v. Safley , 482 U.S. 78 (1987)**

The Supreme Court set down a standard to follow in prison regulation cases stating that "when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." Turner at 88.

Several factors are relevant in determining reasonableness of a prison regulation:

1. There must be a valid, rational connection between the prison regulation and the legitimate governmental interest put forward to justify it. The government objective must be legitimate and neutral.
2. Whether there are alternative means of exercising the rights that remain open to prison inmates.
3. The impact accommodation of the asserted constitutional right will have on guards and other inmates and on the allocation of prison resources.
4. The absence of ready alternatives is evidence of the reasonableness of a prison regulation.

to-face access includes policies like that in California. Some of the other policies are like that instituted in Virginia in February 1996, which allows face-to-face interviews at the discretion of the director.

David Botkins, director of communications for the Virginia corrections department, said the policy is not unreasonable. He argued it is trying to maintain a balance between freedom and control. "The director firmly believes that prison is not the place for media productions or for inmates to complain about injustices and how bad the system is," Botkins said.

Laura LaFay, a reporter with The Virginian-Pilot who works the prison beat, said, "It's the only government building the press can be totally banned from."

"We had an inordinate amount of requests," Botkins said. But when pressed on the number, he couldn't give exact figures. Virginia does not have high-profile inmates such as Charles Manson or Rick

James, yet Botkins insists the department was swamped with requests from 60 Minutes, Dateline, and Inside Edition as well as from local reporters from around the state. Botkins argued that "all cities and counties have heinous crimes. They each have their own inmate. If you add up each county and the inmate they want to see, that's a damn lot of requests."

He added that inmates trumpet "whacked out, hare-brained accusations which aren't true" to reporters and abuse the privileges given them.

California officials expressed a similar belief, saying its regulation will keep inmates from having the opportunity to "espouse their often sociopathic philosophies."

"There have been harsh new policies instituted [in the Virginia prisons] in the last two years. Prison conditions have worsened and discontent among the inmates has increased," LaFay said. There are 26,000

inmates in the Virginia system, more than double that of 10 years ago. It's expected to double again by 2005.

Pennsylvania allows face-to-face interviews, but that didn't stop the Department of Corrections in 1995 from denying media access to death row inmate Mumia Abu-Jamal. Abu-Jamal, a former radio journalist, recently had published a book, "Live from Death Row."

In June 1996, a magistrate judge wrote that the prison cannot deny an inmate access to the news media to retaliate for the exercise of his free speech. While the recommendation, which is being sent to the District Court for consideration, was considered a victory for prison access proponents, the facts of the Abu-Jamal case are so particular as to have almost no impact on the regulations in other states.

In Pennsylvania, prison officials apparently singled out Abu-Jamal. They allowed news media access to other death row inmates.

The federal Bureau of Prisons recently changed its regulations regarding management "of inmates whose contacts with other persons present the potential for acts of violence and terrorism."

The new measures may include housing the inmate in administrative detention and limiting certain privileges, including correspondence, visits, the use of the telephone, and interviews with the news media. The restrictions can be imposed for 120 days and then extended in 120-day increments. Jenni Gainsborough, spokeswoman for the National Prison Project of the ACLU, said the regulations are part of a greater trend. "It's the attitude that we should be harsher on prisoners," she said.

The regulation also appears to be vague. "It doesn't explain why there is a ban on contact with journalists," Gainsborough said. She believed the federal regulation may be motivated by the same issues that are shutting down access to the state prisons. "They want the journalists out so that they can't see what a mess [the prisons] are in," she said.

Help from the nation's courts looks grim. Gainsborough believes any legal challenge fighting the regulations would be upheld by the court. Most prison officials look to two Supreme Court decisions, *Pell vs. Procunier*

(1974) and *Turner vs. Safley* (1987), to support their restrictions.

The Pell court stated that journalists have no constitutional right of access to prisons or their inmates beyond that afforded the general public and that security concerns are sufficient to justify some restrictions on media access. Turner emphasized the courts are to defer to the knowledge of the prison administrators. They have only to show that the regulation is reasonably related to a legitimate penological interest. "[The courts] always give into security concerns," Gainsborough said.

Henry Hoberman, a partner in the firm of Baker & Hostetler in Washington, D.C., and SPJ's First Amendment counsel, believed the courts have been overly deferential to prison officials' judgments. "The courts have taken Turner to heart. The courts should do some fact-finding to see what's really going on behind prison walls," he said.

In some states, it will take an act of the legislature to change prison access policies. In Virginia a bill that would allow some media access passed the House but died in the Senate.

The corrections department lobbied against it, framing the bill as a "coddling the criminals" bill.

"We didn't have the publishers and editors testifying. We need to get them on board [if we try again]," LaFay said. The Virginia Press Association actively lobbied individual senators and was questioned by the delegates before the vote.

But Ginger Stanley, the association's executive director, said they didn't have enough people. "We didn't have anyone

testifying in at least one of the hearings because we were lobbying on seven bills at the same time. It just couldn't be done."

The print media have trumpeted the prison access cause while the broadcast media have remained oddly silent. At the public hearings to institutionalize the media access policy in Rhode Island, only Marcia Grann O'Brien, editor of the *Warwick Beacon* and SPJ State Sunshine chair, and an ACLU representative testified. In Virginia, Stanley said broadcasting didn't lobby for the access bill at all.

The National Association of Broadcasters said there are 40 issues on its plate and prison access isn't one of them. The Southern California Broadcasters Association denied comment.

David Bartlett, president of the Radio TV News Directors Association, believed there may be less interest by broadcast media because the print press "tends to spend more time on longer, deeper stories."

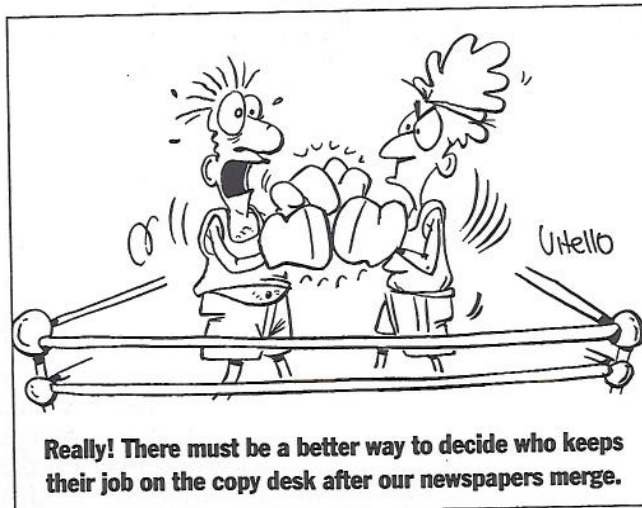
He said the Northern California chapter of RTNDA has been active with the First Amendment Coalition in fighting the change in the California regulation. He says the RTNDA has no national agenda but will help out state by state as the need arises.

The Society of Professional Journalists has been active in fighting the restrictions nationwide. SPJ has filed a formal comment to the Bureau of Prisons about the temporary regulation and has testified at public hearings in Rhode Island and California. The Northern California chapter of SPJ and the Chicago Headliners chapter have been aggressive in combating changes in their respective states.

With harsher criminal sentencing, including three-strike laws and newer, tougher sentencing on juveniles, there will be increased pressure on prison officials nationwide to control an already overcrowded system.

As a former federal prosecutor, Hoberman is not "insensitive to the very real problems that prison officials confront on a daily basis, but the public, who funded the bill, has a right to know what goes on behind prison walls."

*Tracey S. Ryniec was the William/Kilgore Freedom Information intern for SPJ.*



# FOI freedom of information conference

NOVEMBER 22-24

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Learn how to build coalitions and lobby for better access laws in your state. Find out what's happening with access legislation as well as developments in electronic FOI. And get tipped about what the future may hold.

Hear it all from experts, from Pulitzer-prize winners to First Amendment specialists.

<b>Friday, Nov. 22</b>	<b>11:00am-Noon</b> <b>Building Coalitions for Better Access Laws</b> How to build a coalition of journalists and citizens and keep doors to government open. We examine what other states are doing and how successful they've been.  <b>Presenters:</b> Forrest "Frosty" Landon, acting director, Virginia Coalition for Open Government; Nancy Monson, executive director, Freedom of Information Foundation of Texas; and Diana Baldwin, president, FOIA Oklahoma	<b>2:30-3:30pm</b> <b>State Sunshine Laws: An Update</b> Are prosecutors pursuing violations of state sunshine laws? We take a look at laws across the nation.  <b>Presenter:</b> Sandra Chance, assistant director of the Brechner Center for Freedom of Information and assistant professor of journalism at the University of Florida
<b>Saturday, Nov. 23</b>	<b>8:00am</b> <b>Registration</b>	<b>3:45-4:45pm</b> <b>What's Hot and What's Not on Access Issues</b> SPJ's First Amendment counsel provides an update on national and state access issues.  <b>Presenters:</b> Robert Lystad, General Counsel, Baker & Hostetler; Lucy Dalglis, media lawyer and former FOI chair
<b>8:00am</b>	<b>9:00am</b> <b>Welcome</b> Kyle E. Niederpruem, SPJ FOI chair	<b>11:00am-1:15pm</b> <b>Luncheon Address: Access vs. Privacy</b> Barbara Petersen, executive director, First Amendment Foundation
<b>9:00am</b>	<b>9:30-10:45am</b> <b>To Lobby or Not to Lobby?</b> Learn the best way to hit home with access issues at a time when state lawmakers view the media as just another special interest group. Experts share tips on what works and what doesn't.  <b>Presenters:</b> Russell Mellette Sr., independent contract lobbyist; and William C. Rogers, executive director, The South Carolina Press Association	<b>1:30-2:15pm</b> <b>Electronic Records, Will They Ever Be Within Our Grasp?</b> Some states have electronic records laws, others don't. As government privatizes, it continues to sell data to outside vendors. Are vendors subject to disclosure laws?  <b>Presenters:</b> Joel Campbell, Utah State Sunshine Chair; Bill Chamberlin, director, Brechner Center for Freedom of Information; and Paul McMasters, First Amendment Ombudsman, Freedom Forum
<b>9:30-10:45am</b>	<b>8:00-8:30am</b> <b>Continental Breakfast</b>	<b>Sunday, Nov. 24</b>
<b>9:30-10:45am</b>	<b>8:30-9:30am</b> <b>Good News</b> A discussion of what we have to celebrate in this year of the 30th anniversary of FOIA.  <b>Presenter:</b> Paul McMasters, First Amendment Ombudsman, Freedom Forum	<b>8:00-8:30am</b> <b>Continental Breakfast</b>

*at a glance*

**FOI Conference**  
Nov. 22-24, 1996  
Francis Marion Hotel  
Charleston, S.C.

**Hotel Information**

**Francis Marion Hotel**  
387 King Street  
Charleston, SC 29403  
(803) 722-0600

Please make hotel reservations directly with the hotel. Be sure to mention the society of Professional Journalists to receive the special group rate of \$90 per night.

Hotel reservations should be made by Nov. 1. After this date, all reservations will be accepted on a space/rate available basis, solely at the discretion of the Francis Marion.

**For more information**

Contact the Society of Professional Journalists at (317) 653-3333.

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Register three or more people from your organization at the same time for just \$55 each. Registrations and payment must be received by Nov. 14, 1996. Be sure to include the names of all attendees when registering your group.

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Membership benefits include discounts on books, workshops, and convention registration. You'll also receive *QUILL*, the hands-on resource for working journalists.  
 Professional .....\$68     Student .....\$34

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COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

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**TOTAL ENCLOSED** .....

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(make payable to Society of Professional Journalists)

Charge my:  American Express     VISA     MasterCard

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**Cancellation Policy:** All refund requests must be made in writing. No requests made by telephone will be accepted. Requests postmarked by Nov. 14, 1996, will be honored in full. Requests made after Nov. 14 will have a \$15 processing fee deducted. No refunds will be made after Nov. 20. **Photo release:** We occasionally use photographs of conference participants in our promotional material. By virtue of your attendance, you agree to usage of your likeness in such material. Confirmations will not be mailed on registrations received after Nov. 14.

# JFK case puts reporter in court

Broadcast of records thought destroyed angers DA who charges contempt

BY ROBERT D. LYSTAD

Something is amiss among the sights and sounds of the Big Easy. While New Orleans commuters cram streetcars down St. Charles Avenue, tourists nibble on beignets at the Cafe du Monde, and college students flock to Bourbon Street for refreshing gin fizzes and the sweet sound of jazz, veteran television reporter Richard Angelico awaits his fate after drawing the ire of the city's popular district attorney.

Angelico's crime? He broadcast a report about the recently uncovered existence of decades-old grand jury testimony relating to the assassination of John F. Kennedy and sent the documents to the Assassination Records Review Board, a federal body created in 1992 to acquire and safeguard all documents pertaining to the Kennedy assassination.

Twenty-two years ago, it seems District Attorney Harry Connick Sr. ordered the incineration of thousands of grand jury records inherited from his predecessor, Jim Garrison. Connick (yes, he's

the father of the great jazz and blues musician) claims the destruction of these records was necessary to create badly needed storage. Among the records destined for the ash heap were transcripts of testimony, including that of Lee Harvey Oswald's widow, taken during the investigation of Clay Shaw, a prominent New Orleans businessman who Garrison believed was part of a conspiracy to kill Kennedy. Shaw was acquitted on all charges and Garrison was criticized for engaging in an outlandish witch hunt, although Oliver Stone, in his movie "JFK," revived Garrison's discredited theory.

Unbeknownst to Connick—who is still the DA—his plan to destroy the Shaw records in 1974 was foiled. The individual assigned the task of burning the documents, New Orleans police officer Gary Raymond, thought the records were of such historical importance that he kept and hid them for more than 20 years. When Connick failed to mention his trash-burning directive during testimony before the Review Board last year, Raymond

re-emerged. He contacted Angelico and told his tale of surreptitious valiancy. He handed the Kennedy assassination records to Angelico, who, at Raymond's request, forwarded them to the Review Board. Angelico then shocked New Orleans television viewers with the story: Connick had ordered the destruction of documents pertaining to perhaps the nation's most momentous event of the 20th Century, and apparently misled the Review Board about his actions.

Connick struck back. He asked a New Orleans court to hold Angelico in contempt for violating a state statute that prohibits court personnel from disclosing grand jury secrets. Because Angelico was a seasoned reporter familiar with court secrecy rules, Connick claimed, his dissemination of grand jury records violated the law. Never mind that the contempt statute does not apply to reporters, however knowledgeable they are about court rules. Never mind that Angelico was a mere recipient of the documents rescued by a conscientious police officer. Never mind that the Shaw grand jury had been disbanded for nearly 30 years, thus eliminating any secrecy interests that once may have existed. And, never mind that federal law requires all Kennedy assassination documents to be sent to the Review Board. The court agreed with Connick and held Angelico in contempt, sentencing the reporter to three months in the Orleans Parish prison and issuing a \$100 fine. The Society of Professional Journalists agreed to pay Angelico's fine; the judge suspended his prison term.

Some say Connick's actions are nothing but a mean-spirited vendetta against a reporter who tarnished the DA's reputation. Connick insists his actions are necessary to protect grand jury secrecy. Regardless, the court's decision has grave implications for Louisiana's journalists and citizens everywhere. Under the court's ruling, the mere receipt of confidential court documents or information could land a reporter in jail. In the words of Angelico's attorneys, Connick "has sought to stifle criticism of the state's handling of grand jury proceedings by seeking to punish those who would expose governmental irregularities to the public. But for the actions of Richard Angelico and his source, unique historical records pertaining to the assassination of President Kennedy would have been lost to the public."

Angelico's contempt citation is on appeal in New Orleans. Connick said that Angelico should be punished for "bargaining with a thief for stolen property." Weighing in on Connick's side is the Louisiana District Attorneys Association. In a separate brief filed with the appellate court, the association argues that unless the contempt citation is affirmed, "other journalists will encourage the pilfering of secret or sealed court documents. If Angelico is punished, journalists will report thieves, rather than aid and abet them."

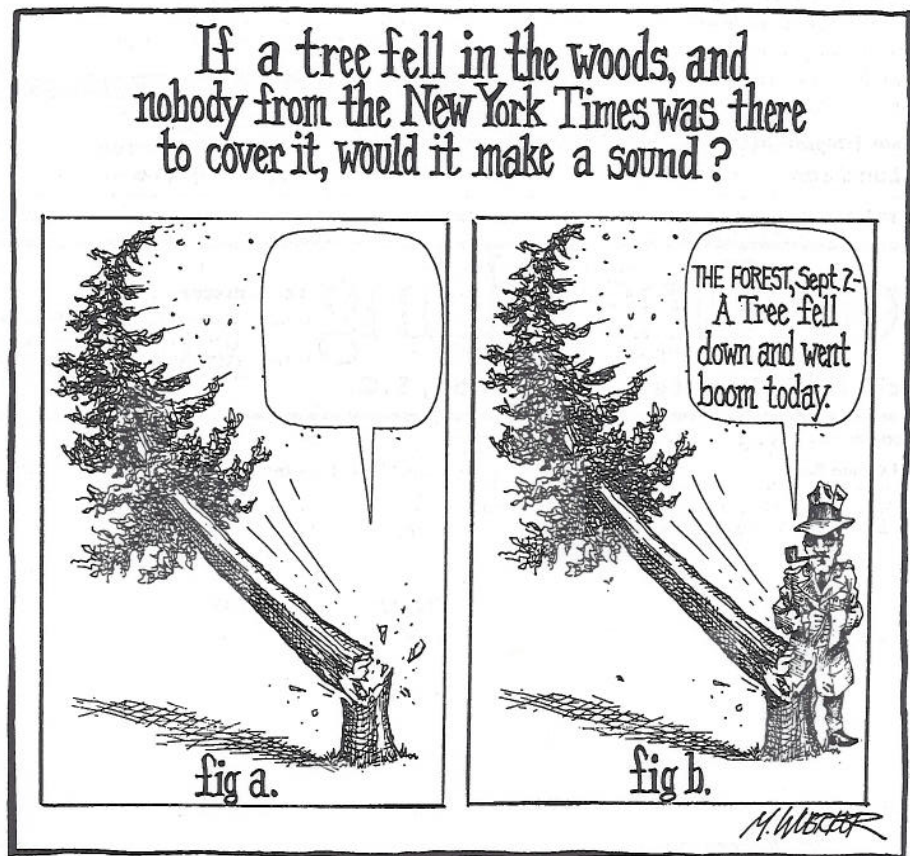
Angelico's lawyers counter: "Obtaining confidential government documents from confidential government sources is the bread-and-butter of newsgathering. What a chilling effect it would have upon most working journalists to learn that, according to the district attorney, not only is the receipt of such information criminal, but that the Constitution is powerless to stop the imposition of punishment for such routine newsgathering." With several Louisiana press groups, SPJ submitted a brief to the appellate court urging that the contempt finding be reversed.

Here, the First Amendment may indeed absolve Angelico of wrongdoing. The U.S.

Supreme Court repeatedly has held that states may not punish individuals for publishing truthful information about the government, even though the information is confidential and disclosure is forbidden by statute, unless the government can show a "manifestly overwhelming" need for secrecy. Only an interest of the "highest order"—such as disclosing troop movements in times of war—can justify punishment of the press for publishing such information.

Richard Angelico responsibly shared historically significant information with the public. Rather than condemn Angelico, Connick—himself a frequent crooner at new Orleans Jazz Fest and charitable events—should listen more closely to the music of the First Amendment. It is music designed for the pleasure of the public and not just the press. Angelico played the right tune. ☐

*Robert D. Lystad is an associate in the Washington office of Baker & Hostetler, which serves as First Amendment counsel to the Society of Professional Journalists.*



# front-line editing workshop

NOVEMBER 23 - 24

## Taking the right steps.

Getting your feet wet as a new editor, or needing a refresher course? Here it is! The path from reporter to the top ranks of your news organization leads right through the editors ranks. The rewards can be immeasurable IF you can survive the challenges. Get a head start at the SPJ Front-Line Editing Workshop!

Workshop sponsored by **The Post and Courier**

**Saturday, Nov. 23**

**8:00am-9:00am**  
**Registration**

**9:00am-10:15am**  
**So You Want to be an Editor?**  
The myths and realities of editing, how you get into it, what to expect and the impact of newsroom reorganizations on front-line editors.

**10:30am-11:30am**  
**Managing Budgets: Not the Ones Involving Words and Pictures**  
Keeping your eyes on the financial side of your newsroom's operation is becoming increasingly important and could be a hurdle you must clear to move up. How to negotiate the balancing act between being a financial manager and a responsible news executive.

**11:45am-1:00pm**  
**Box Luncheon**

**1:15pm-2:30pm**  
**Responding to Readers and Viewers: Your Public Role as a Front-Line Editor**  
The days have long passed when reporters and editors could tell the calling public "drop dead." Discuss how to listen and learn from your readers and how to fashion a response that readers recognize in the newspaper.

**2:45pm-4:00pm**  
**Editing for Style as Well as Substance**  
Too often stories are too light or too heavy. How to give beauty to the beast.

**4:15pm-5:30pm**  
**It's the Law: Dealing With Libel and Invasion of Privacy Issues**  
This is a nuts and bolts look at libel and privacy issues with tips on how to avoid problems in your newsroom.

**Sunday, Nov. 24**

**8:30am-9:30am**  
**Managing Reporters and Yourself**  
There's a natural tension between reporters and editors.

Occasionally, it takes a turn for the worse. How to identify pressure points, defuse tensions and manage stress. How to get the best from your reporters and yourself and still be friends.

**9:45am-10:45am**  
**Time Management: The Key to Survival**  
Organization and prioritizing are key to making it through the day. Practical guidance on working smarter, not harder, by managing your time wisely.

**11:00am-Noon**  
**Managing a Changing Newsroom**  
As newsrooms continue to reorganize and downsize, it is essential to stay ahead of those changes. Look at how to manage the changes being faced by newspapers around the country.

**12:15pm-1:15pm**  
**Beyond the Masses: Rising to the Top**  
Editors discuss how they moved from the trenches and the ranks into the top levels of newsroom management.

# Front-Line Editing

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Professional.....\$68     Student.....\$34

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COMPANY \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY / STATE / ZIP \_\_\_\_\_

**TOTAL ENCLOSED** .....

Check/money order enclosed  
(make payable to Society of Professional Journalists)

Charge my:  American Express     VISA     MasterCard

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CARD EXPIRATION DATE

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at a glance  
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**Hotel Information**  
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Contact the Society of Professional Journalists at (317) 653-3333



# Driver act now state fight

1994 federal law to close records  
moved access efforts into 50 arenas

BY KYLE E. NIEDERPRUEM

**P**at Rogers' worst fears are being realized. As the New Mexico Press Association lobbyist-attorney, Rogers is wrangling with reluctant state officials over motor vehicle records.

In the aftermath of the Driver's Privacy Protection Act of 1994, several states have approved "opt-out" laws to keep records open. An opt-out allows an individual motorist to decide if his or her personal information should be confidential.

New Mexico was one of the first states to approve such a law but the language gives state officials "administrative discretion" to come up with a check-off form for motorists.

And, that's where it all breaks down.

Rogers said state officials are reluctant to create a form, fearing liability, \$5,000 penalties in the federal act, and the costs to administer a new record-keeping system.

Without a form created by the state, personal information on motor vehicle records automatically will be closed by the federal deadline of September 1997.

"It's going just as badly as everyone thought," Rogers said. While still negotiating with officials of

the State Department of Tax and Revenue over the creation of an opt-out form, Rogers isn't hopeful. "All the problems with the federal statute have come to pass."

For news-gathering purposes, the use of motor vehicle records is critical even for daily police stories. Public service projects frequently are done by newspapers and television stations on drunken drivers, those who have serious motor vehicle violations and continue to hold jobs as school bus drivers and airline pilots.

In Minnesota, state officials are predicting that as many as 50 percent of licensed drivers will ask for personal information to be confidential. With an easy check-off form and little obligation, they predict many will opt for privacy.

There are 3.3 million drivers in Minnesota.

"Fifty percent almost makes an opt-out law worthless," said Mark Anfinson, counsel for the Minnesota Newspaper Association.

News groups have been told that state officials will interpret an individual motorist's request as "permanent" with no option of that record ever opening up again as public.

Even so, Anfinson said the state statute recognizes

a key paragraph in the 1994 federal law.

"The commissioner shall disclose personal information where the use is related to the operation of a motor vehicle or to public safety, including public dissemination. The use of personal information is related to public safety if it concerns the physical safety or security of drivers, vehicles, pedestrians, or property."

Anfinson said the state is interpreting this section to allow continuing access for the public and the news media—even to personal information that has been declared confidential.

He also was approached by marketers who continue to work frantically for minimal state opt-out laws, but Anfinson warned that those alliances aren't necessarily beneficial.

"Assume nothing in the adequacy of their language," Anfinson said. "Keep some distance between yourselves and the direct marketing people."

Under the federal law, personal information includes name, address, telephone number, driver identification number, photograph, Social Security number and medical or disability information.

Information on accidents, traffic violations and a driver's status will remain public if a state already permits that disclosure.

There already are major exceptions to confidentiality in the federal law for a variety of groups to receive that data including tow truck operators, telemarketers and private detectives.

News groups did not lobby for a special exemption arguing that media access should be the same as public access. Instead, they acknowledged that a state opt-out provision was the least objectionable of the alternatives to closing DMV records.

But the presumption of openness and public review of large databases compiling millions of motors vehicle records often has been a difficult sell to policy-makers who cite privacy concerns.

Citizens often are surprised to learn that motor vehicle information is public record and has been in most states for many years.

In many states this year, opt-out laws were enacted quickly and quietly.

Bill Childress, director of the West Virginia Press Association, said no crime concerns were raised when an opt-out bill passed there this year.

"The opt-out law was very quiet. Very much in the background. The commissioner of motor vehicles was articulate and not opposing it. It moved so well that we had to do very little hard lobbying," Childress said.

The Council of State Governments is offering the West Virginia opt-out law as model legislation endorsed by its influential Committee on Suggested State Legislation.

The Polk Cos., TRW Target Marketing Services, Metromail and Donnelley Marketing Inc. have been lobbying for opt-out laws. They package and sell data for a variety of purposes.

Model legislation from marketing companies passed this year in Indiana and Tennessee.

No lawsuits have materialized to challenge the cumbersome federal act and most opt-out laws won't be effective until September 1997. That's the federal deadline for states.

*Kyle E. Niederpruem is the environmental reporter for the Indianapolis Star and FOI chair of SPJ.*

## Key points in the federal driver's privacy law

Driver's Privacy Protection Act of 1994  
Public Law No. 103-322, Title XXX  
Codified at 18 U.S.C. §§ 2721-2725 (Chapter 123)  
Effective September 13, 1997

The relevant portions of the federal law provide:

§ 2721. Prohibition on release and use of certain personal information from State motor vehicle records

(b) PERMISSIBLE USES—Personal information...may be disclosed as follows:

(11) For any other use in response to requests for individual motor vehicle records if the motor vehicle department has provided in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards, notice that personal information collected by the department may be disclosed to any business or person, and has provided in a clear and conspicuous manner on such forms an opportunity to prohibit such disclosures.

§ 2725. Definitions

In this chapter—

(1) 'motor vehicle record' means any record that pertains to a motor vehicle operator's permit, motor vehicle title, motor vehicle registration, or identification card issued by a department of motor vehicles;

(2) 'person' means an individual, organization or entity, but does not include a State or agency thereof; and

(3) 'personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.

# Model opt-out law for states

## The language

Records of the Department of Motor Vehicles (the "Department")

### a. Records required to be kept—

The Department shall keep a record of each application or other document filed with it and each certificate or other official document that it issues.

### b. Records are public information; public inspection—

(1) Except as otherwise provided by law, all records of the Department are public records and shall be made available to the public according to procedures established by the Department.

(2) Personal information obtained by the Department shall be disclosed to any person requesting such personal information if the individual whose personal information is requested has not elected to prohibit the disclosure of such personal information pursuant to subparagraph (c) herein.

### c. Notice of disclosure; request for nondisclosure—

(1) The Department shall give notice in a clear and conspicuous manner on forms for issuance or renewal of operator's permits, titles, registrations, or identification cards that personal information collected by the Department may be disclosed to any business or person.

(2) The Department shall provide in a clear and conspicuous manner on forms described in subparagraph c(1) an opportunity for an individual to prohibit disclosure of such personal information.

### d. Definitions—

'Personal information' means information that identifies an individual, including an individual's photograph, social security number, driver identification number, name, address (but not the 5-digit zip code), telephone number, and medical or disability information, but does not include information on vehicular accidents, driving violations, and driver's status.

### e. Effective date—

The amendments made herein shall become effective on September 13, 1997.

## Additional suggested language for state statutes

Suggested language related to 18 U.S.C. § 2721(b)(5) and (b)(11). The pertinent federal law, in addition to § (b)(11) described above, provides:

"(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals."

The Department shall not be considered to have disclosed or otherwise made available personal information when it verifies the accuracy of personal information already in the possession of individuals who are not officers, employees or contractors of the Department, provided that such verification shall be limited to informing such individuals whether the personal information in their possession is correct, and shall not include the provision of corrective information.

Suggested language related to 18 U.S.C. § 2721(b)(14). The federal law provides:

"(14) For any other use specifically authorized under the law of the State that holds the record, if such use is related to the operation of a motor vehicle or public safety."

Notwithstanding the opportunity to prohibit disclosure of personal information as set forth in subparagraph c(2) of this section, the Department shall make available to the public information for which the use is related to the operation of a motor vehicle or public safety.

As used herein, the use of information related to the operation of a motor vehicle shall include, but is not limited to, information concerning the make, model, class, place and date of manufacture, and owner of a vehicle. As used

herein, the use of information shall be considered related to public safety whenever it concerns the physical safety or security of drivers, vehicles, pedestrians, or property.

## Where opt-out laws passed

Alaska  
Colorado  
Indiana  
Iowa  
Minnesota  
New Mexico\*  
Ohio  
South Carolina  
Tennessee  
West Virginia  
Wisconsin

## Where opt-out laws failed

Connecticut  
Florida  
Missouri

\* See story for full explanation on New Mexico law

### Notes

**Colorado:** State passed an opt-out privacy law with regard to criminal harassment, before federal legislation.

**Illinois:** Secretary of State says media have access regardless of the federal law.

**Iowa:** Journalists cannot base requests on license plate numbers.

**Many states** say they will be seeking media specific exemptions, however SPJ generally opposes media exemptions.

### FOIA REQUEST LETTER

Agency Head [or Freedom of Information Officer]  
Name of Agency  
Address of Agency  
City, State, Zip Code  
Re: Freedom of Information Act Request

Dear [FOI Officer]:

This is a request under the Freedom of Information Act (5 U.S.C. §552).

I request that a copy of the following documents [or documents containing the following information] be provided to me: [Identify as specifically as possible.]

In order to help you determine my status to assess fees, you should know that I am [insert description of requester and purpose of request, such as "a representative of the news media affiliated with ..."], and this request is made as part of news gathering and not for commercial use.

[You may also offer to pay fees, up to a certain amount, or request a fee waiver.]

Thank you for your consideration of this request.

Sincerely,

### FOIA APPEAL LETTER

Agency Head [or Appeal Officer]  
Name of Agency  
Address of Agency  
City, State, Zip Code  
Re: Freedom of Information Act Request [number]

Dear [FOI Officer]:

This is an appeal under the Freedom of Information Act (5 U.S.C. §552 (a)(6)).

On [date], I requested documents under the Freedom of Information Act, and my request was assigned the following identification number: [number].

On [date], a letter signed by [name of official] responded to my request. I appeal the denial of my [full] request.

The documents that were withheld must be disclosed under FOIA because [list reasons].

[and/or] I appeal the decision to require me to pay [search/review] costs. I am a representative seeking information as part of news gathering and not for commercial use [provide details as necessary].

Thank you for your considering this appeal.

Sincerely,

# How to file FOIA request

The following was adapted from "The Freedom of Information Act: A User's Guide," produced by the Freedom of Information Clearinghouse, P.O. Box 19367, Washington, D.C. 20036.

**Getting started:** The first step is to determine what you want, because the law requires that your request "reasonably describe" the records you seek. You must request records describing a particular subject in sufficient detail that a government employee can locate the information.

The next step is to determine which agency has the information and the address

of the office that processes Freedom of Information Act requests. In all requests you should:

- State that you are making the request pursuant to the FOIA (5 U.S.C. §552).
- Write "Freedom of Information Request" on both the envelope and letter.
- Follow up your request with a phone call.

Under the FOIA, an agency may deny your request only if the documents are specifically covered by one of the act's nine exemptions. Moreover, agencies may release records even though they are covered by an exemption.

The law gives the agency 10 working days to respond to a FOIA request (legislation strengthens this period to 20 days for electronic FOIA requests), but many agencies have backlogs of months and even years. If an agency does not meet the time deadline, you may consider the request denied and appeal or sue, although it is often advised to first contact the agency and examine all options.

**Getting computer data:** The law has no provision for access to electronic records. If you want records in a form other than paper, specify your wishes as precisely as possible, but realize that practices differ

each agency.

**How to appeal:** If your request is partially or entirely denied, you have the right to appeal. The denial form should inform you of appeal procedures. Your appeal letter should include a description of your request, a copy of your request, and a statement indicating that you are appealing the agency's decision. Cite 5 U.S.C. §552 paragraph (a)(6) of the FOIA.

Explain why the denial was unwarranted, either because the exemption doesn't apply or because the agency should use its discretion to release the records. Under the law, the agency has a 20-working-day deadline to respond to the appeal.

**Costs:** Fees depend upon who is requesting the information. Commercial users pay standard search and copy charges, but educational or non-commercial scientific institutions and the media may only be charged for reasonable duplication costs. To save money, you may ask to see the documents themselves.

You may be entitled to a waiver or reduction in fees if "disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."

**Going to court:** If your appeal is denied, you may sue in U.S. District Court. If the government can't prove the documents are exempt, then the court will order the agency to surrender them.

### The nine exemptions:

▲ **National security:** Documents classified pursuant to a presidential executive order.

▲ **Internal agency rules:** Personnel rules that are predominately internal in nature.

▲ **Information exempted by another federal statute:** Mandatory nondisclosure provisions, such as those written in the tax code for tax returns.

▲ **Trade secrets:** An agency must first prove

that the financial or commercial information is confidential and that disclosure would likely impair the agency's ability to obtain information in the future or cause competitive injury.

▲ **Internal memorandums:** This protects the decision-making process, but not the factual contents of documents concerning how a decision was made.

▲ **Personal privacy:** An agency must balance the public's interest in disclosure against the degree of invasion of privacy that would result from disclosure.

▲ **Investigatory records:** Law enforcement records that could interfere with enforcement proceedings, identify a confidential source, disclose techniques and procedures, or invade privacy are included.

▲ **Financial institution records:** This deals with records prepared as part of the regulation or supervision of financial institutions.

▲ **Oil well information:** A legacy of the Johnson administration, under which the law was enacted, this exemption is almost never used.

## Some practical advice for FOIA requests

Whether you file your FOI request with the FBI or FDA, or even at the state level, you're likely to run into a few problems along the way. It's good to keep the following tips in mind:

### When you're having trouble with your initial request:

- ☛ Contact the agency to discuss your request. If there is going to be a delay, try to pin down a date within the next four to six weeks that your request will be fulfilled.
- ☛ Consider rewriting or revising your letter, especially if the agency says you've inadequately identified the material you're requesting, or that the material doesn't exist.
- ☛ Be prepared to discuss why the agency won't release the material. Familiarize yourself with the law. Ask for the exemptions under which they are denying the request, and be prepared to remind the agency that it may still be required to release some material or that it has discretion whether or not to release the material in question.
- ☛ Look for the material at another agency. In some cases under FOIA, one agency may refuse to release a report while a different agency will be compelled to release the identical document.

### And then ...

- ☛ Consider having an attorney help you. Not only can an at-

torney help refute the agency's claims of exemptions, but a letter from a lawyer puts the agency on notice that you are one step closer to filing a lawsuit.

- ☛ Contact a local or national FOI group. Most groups have experience working with the agencies and state groups from which you're trying to gain information, so they'll be able to provide detailed advice and lend a sympathetic ear. Additionally, a strong letter of support from one of these groups may jar an agency into compliance, especially if the group has filed FOIA lawsuits in the past.
- ☛ Call up the legislature. Members of Congress or state legislators might be receptive to your problems and are in a position to influence agency officials.

### If you file a lawsuit ...

- ☛ Keep in mind that there is a six-year statute of limitations under FOIA, so you must commence your lawsuit within six years of your initial request. Some state FOI laws may give you even less time to sue.
- ☛ It is possible to have your attorney fees and court costs reimbursed if you "substantially prevail" in your FOIA lawsuit. Whether you will be able to claim this provision, designed to help ordinary citizens enforce their rights, is in large part up to the judge and is by no means certain.

# Constant fight for state records

Texas father's battle for daughter's school file typical of problems found in local arenas

In 1993, 13-year-old Crystal Lett was sent to the principal's office by her eighth-grade choir teacher. The charge: excessive tardiness. The sentence: detention.

Crystal's father Robert Lett, a Houston FBI employee, was distrustful of the teacher's account of the events that led to Crystal's punishment. He asked to review Crystal's school records. Of the 66 documents and files Lett sought, the Klein Independent School District gave him two.

Frustrated, Lett sought an opinion from Texas Attorney General Dan Morales whose office issued an informal opinion that the records should be released. Unfazed, the Klein school board sued Lett and the attorney general, arguing Crystal's records were part of the "deliberative process" and exempt from disclosure under the Texas public records law.

Morales was later dropped from the suit, leaving Lett a tough choice: fight the battle alone at a great expense or surrender. To make matters worse, the school district amended its suit to seek legal fees from Lett.

Lett chose to continue the fight. A trial judge sided with the school district. Lett appealed, joined by Houston attorney Rob Wiley, a director of the Freedom of Information Foundation of Texas, who worked on the case pro bono.

In February, the Texas 14th Court of Appeals reversed the trial court decision and ordered the Klein

## The authors

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school board to release Crystal's records to her father. Judge Maurice E. Amidei ruled that a parent has an unqualified right of access to a minor child's disciplinary records. Amidei chided the school district for its creative interpretation of the Texas "deliberative process" exemption and noted that none of the time-consuming, expensive litigation had been necessary.

The end of an access nightmare? Hardly.

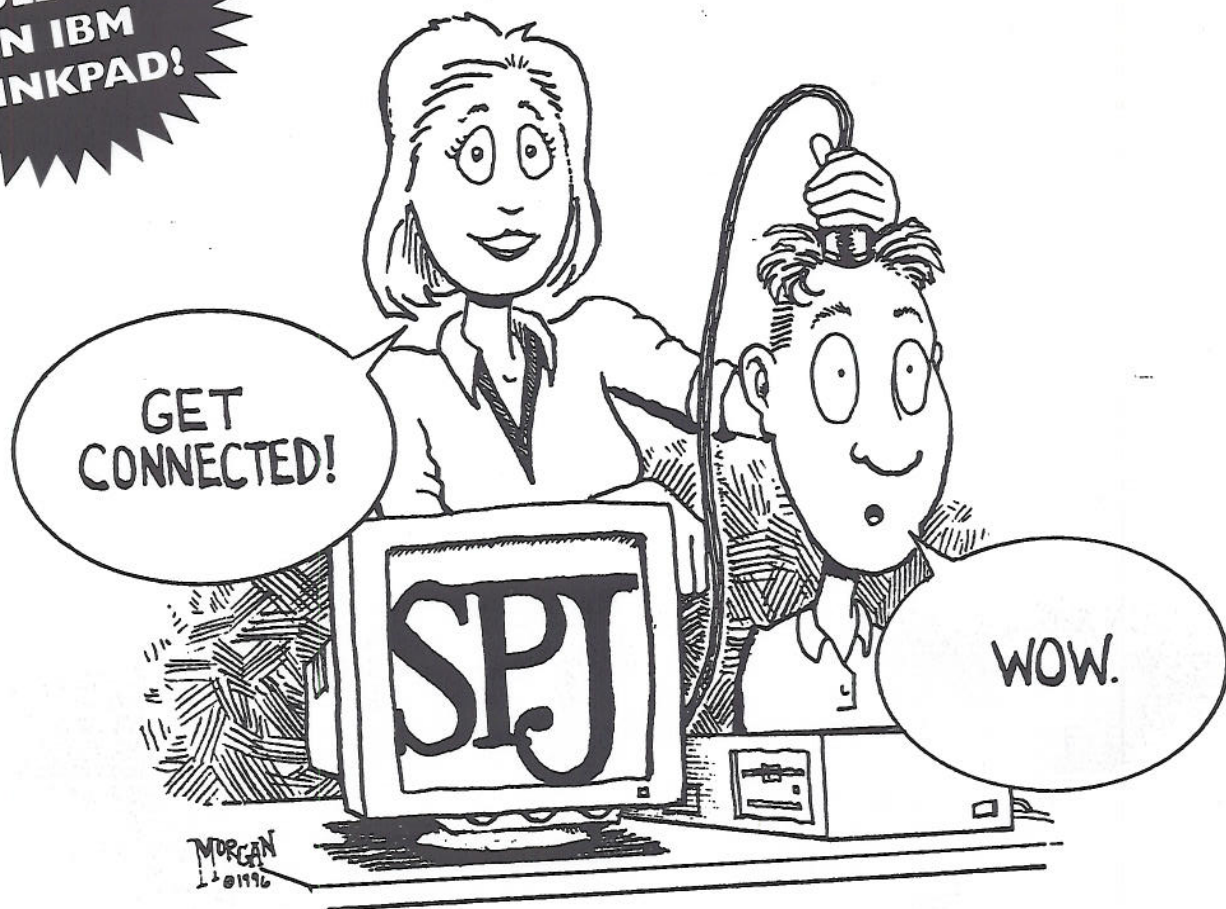
The Texas Legislature, appalled by the Lett case, passed a law in the last session making it illegal for a governmental body to sue citizens requesting

records. The Lett case was pending, so the law cannot be applied, and the Klein school district has filed a writ of error to the Texas Supreme Court. Now—nearly four years to the date that Robert Lett asked for his daughter's disciplinary files—the 64 documents, mostly handwritten notes between the Klein superintendent, the teacher, and other school officials, remain sealed.

"Hopefully we will see the end of this case this year," Wiley said. "It has certainly been a classic example of endless litigation."

Lett's freedom of information saga provides a dramatic example of the foot-dragging and hard-headed secrecy that federal and state access laws were designed to eliminate. Despite the statutory directive to open their processes to public scrutiny, government agen-

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For a list of winners, see the November 1997 issue of Quill or send a self-addressed, stamped envelope to Recruitment Contest, 16 South Jackson Street, Greencastle, IN 46135.

This contest is open to all members of the Society of Professional Journalists, except paid staff.

# Code of Ethics

ADOPTED BY THE SOCIETY OF PROFESSIONAL JOURNALISTS • SEPTEMBER 21, 1996

## Preamble

Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. The duty of the journalist is to further those ends by seeking truth and providing a fair and comprehensive account of events and issues. Conscientious journalists from all media and specialties strive to serve the public with thoroughness and honesty. Professional integrity is the cornerstone of a journalist's credibility.

Members of the Society share a dedication to ethical behavior and adopt this code to declare the Society's principles and standards of practice.

## Seek Truth and Report It

**Journalists should be honest, fair and courageous in gathering, reporting and interpreting information.**

### Journalists should:

- ▶ Test the accuracy of information from all sources and exercise care to avoid inadvertent error. Deliberate distortion is never permissible.
- ▶ Diligently seek out subjects of news stories to give them the opportunity to respond to allegations of wrongdoing.
- ▶ Identify sources whenever feasible. The public is entitled to as much information as possible on sources' reliability.
- ▶ Always question sources' motives before promising anonymity. Clarify conditions attached to any promise made in exchange for information. Keep promises.
- ▶ Make certain that headlines, news teases and promotional material, photos, video, audio, graphics, sound bites and quotations do not misrepresent. They should not oversimplify or highlight incidents out of context.
- ▶ Never distort the content of news photos or video. Image enhancement for technical clarity is always permissible. Label montages and photo illustrations.
- ▶ Avoid misleading re-enactments or staged news events. If re-enactment is necessary to tell a story, label it.
- ▶ Avoid undercover or other surreptitious methods of gathering information except when traditional open methods will not yield information vital to the public. Use of such methods should be explained as part of the story.
- ▶ Never plagiarize.
- ▶ Tell the story of the diversity and magnitude of the human experience boldly, even when it is unpopular to do so.
- ▶ Examine their own cultural values and avoid imposing those values on others.
- ▶ Avoid stereotyping by race, gender, age, religion, ethnicity, geography, sexual orientation, disability, physical appearance or social status.
- ▶ Support the open exchange of views, even views they find repugnant.
- ▶ Give voice to the voiceless; official and unofficial sources of information can be equally valid.
- ▶ Distinguish between advocacy and news reporting. Analysis and commentary should be labeled and not misrepresent fact or context.
- ▶ Distinguish news from advertising and shun hybrids that blur the lines between the two.
- ▶ Recognize a special obligation to ensure that the public's business is conducted in the open and that government records are open to inspection.

## Minimize Harm

**Ethical journalists treat sources, subjects and colleagues as human beings deserving of respect.**

### Journalists should:

- ▶ Show compassion for those who may be affected adversely by news coverage. Use special sensitivity when dealing with children and inexperienced sources or subjects.
- ▶ Be sensitive when seeking or using interviews or photographs of those affected by tragedy or grief.
- ▶ Recognize that gathering and reporting information may cause harm or discomfort. Pursuit of the news is not a license for arrogance.
- ▶ Recognize that private people have a greater right to control information about themselves than do public officials and others who seek power, influence or attention. Only an overriding public need can justify intrusion into anyone's privacy.
- ▶ Show good taste. Avoid pandering to lurid curiosity.
- ▶ Be cautious about identifying juvenile suspects or victims of sex crimes.
- ▶ Be judicious about naming criminal suspects before the formal filing of charges.
- ▶ Balance a criminal suspect's fair trial rights with the public's right to be informed.

## Act Independently

**Journalists should be free of obligation to any interest other than the public's right to know.**

### Journalists should:

- ▶ Avoid conflicts of interest, real or perceived.
- ▶ Remain free of associations and activities that may compromise integrity or damage credibility.
- ▶ Refuse gifts, favors, fees, free travel and special treatment, and shun secondary employment, political involvement, public office and service in community organizations if they compromise journalistic integrity.
- ▶ Disclose unavoidable conflicts.
- ▶ Be vigilant and courageous about holding those with power accountable.
- ▶ Deny favored treatment to advertisers and special interests and resist their pressure to influence news coverage.
- ▶ Be wary of sources offering information for favors or money; avoid bidding for news.

## Be Accountable

**Journalists are accountable to their readers, listeners, viewers and each other.**

### Journalists should:

- ▶ Clarify and explain news coverage and invite dialogue with the public over journalistic conduct.
- ▶ Encourage the public to voice grievances against the news media.
- ▶ Admit mistakes and correct them promptly.
- ▶ Expose unethical practices of journalists and the news media.
- ▶ Abide by the same high standards to which they hold others.

**Complete convention coverage in the November Quill**



... a magazine [that] surveys and interprets today's journalism while stimulating its readers to collective and individual action for the good of our profession.

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**A special thanks**

Many people worked tirelessly to help bring together this special issue of Quill. Among them, those whose names appear on the stories you will read, many of them long-time SPJ members, and, especially, Kyle Niederpruem, the FOI chair for SPJ.

But, a special note of thanks needs to be said to four people:

■ Homeyra Mokhtarzada and Tracey Ryniec, Pulliam/Kilgore interns for SPJ who spent last summer gathering information for this issue.

■ Kristen Desmond and Jacqueline Myers, Ward Neff interns who work in the SPJ office.

What these four women did isn't always reflected in bylines in the magazine, but without their effort at gathering information, checking and rechecking, this issue would not be here.

If you have a chance, say thanks to all of these fine journalists for their effort at ensuring the free flow of public information.

—Maggie Balough  
Quill editor

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BY MAGGIE BALOUGH

**W**hat exactly does freedom of information mean? Not enough people realize how different their lives would be if President Johnson had let July 4, 1966 pass without his signature.

That's the problem, and that's why this issue of Quill is devoted to information and access issues.

Thirty years ago, a few members of Congress joined forces with the news media to hammer home a piece of legislation that at least began the process of giving citizens the rights to acquire information about the operation of the federal government.

Freedom of information efforts in the states put news media and citizen groups together to work for legislation that set ground rules for the public's business.

The news media led the way in requesting information and prepared for the public stories that detailed what government records showed—or failed to show.

When the spotlight was shone on decisions that the public questioned, reform legislation or budgetary changes frequently followed.

Watchdogs realized they had a new tool to use in the check-and-balance system of government. Citizen groups with special interests—environmental, health, safety and others—began requesting information as did business and commerce, realizing that data in government records could enhance their positions.

President Johnson noted: "This legislation springs from one of our most essential principles: a democracy works best when the people have all the information that the security of the nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest."

For most of 25 years, the processes of opening records rocked along, sometimes forward, sometimes backward, always searching to put definition to public interest. Successes were incremental, failures weren't fatal.

About five years ago, the equation changed.

Access to information came to mean access to money in an era when information is the commodity of trade. Uncle Sam gathers much data that big business now wants to buy, reprocess and sell. The problem is that the potential consumer for this information is the same citizenry that already has footed the bill—as taxpayers.

Privacy concerns have moved front and center as some citizens feel violated. Social Security numbers, debts and medical records have come into the public arena as the fodder of databases.

Journalists are on the point, fighting for the public's right to know, a right some of the public isn't sure it wants. And, in the world of politics and strange bedfellows, communications companies frequently are joined by—or are—the folks with visions of dollar signs in their heads.

What should journalists do?

First, educate ourselves about information access and privacy issues. Information is our stock in trade. Too few of us understand and use the laws. All too often journalists accept a refusal for information without questioning the legality of that decision. Information won't be free unless we

## Public information a public issue, not just the media's Like freedom of speech, it's available to all

make it so.

Second, be pragmatic and mindful of what interests the public. Our agendas and the public's aren't always in sync. Give the public information about issues of concern. Remind the public this information was available because of laws that ensure access to government information.

Journalists, in the rush to prove points of principle, sometimes forget points of practicality. The public doesn't. Journalists too are custodians of public trust and public interest.

Third, make sure we understand how the information is used after it is made available. This is thorny. When we free information, we free information. The news media may use that information responsibly. Others may not. What the public remembers is the latter.

The challenge for journalists is to help the public understand that freedom of information is like freedom of speech. It is a right given to all. We must make the point that the solution is not to close the information, but to pressure those who abuse the system until they stop.

This country is just around the corner from complete information access at our fingertips. We must ensure that when we perfect the technology, the information is there.

Freedom of information is not just the news media's issue. But, it's up to us to make sure the public understands. □



## There's hope yet!

**A**fter seeing too many examples of blatantly one-sided "news" reports, obvious bias in selecting what news to report, and reporting so superficial that outright lies are repeated without question, let's just say I am concerned about our profession of journalism.

But five letters in the July/August issue renew my faith: "Inexcusable," "Harmless error?," "Rather shallow," "Affirmative action? No," and "Similar think." As long as there are such journalists as these letter writers among us, and they will continue to speak, there is hope for the profession yet.

BILL CLEDE  
Wethersfield, Connecticut

## How Cokie did it

**I** thought your July-August issue was one of the better. Loved the story on artist colonies and the update on 25/43. It was great until I read the piece by Felix Winternitz, "Muckraking or buckraking." I've written two pieces for *American Journalism Review* (May 1994, June 1995) on journalists and speaking fees, and while I don't mind my anecdotes being recycled, I prefer they're recycled accurately. Mr. Winternitz does journalism and the issue of speaking fees a great disservice when he gets the facts wrong.

"She [Cokie Roberts] took \$35,000—a sum more than many in her profession make in an entire year—to deliver an hour-long speech to a bunch of Toyota dealers," writes Winternitz, president of the Queen City SPJ chapter in Cincinnati, "... It's one thing speaking to non-profits, colleges or fellow journalists but what does Roberts—or any journalist—have to say to a bunch of Toyota dealers that the rest of us shouldn't be privy?"

After having written quite a bit about ABC's Roberts enjoying large speaking fees, I never imagined I'd come to her defense. In April 1995, I flew to Florida to watch her give a speech for \$35,000, after receiving a tip from *Chicago Tribune* bureau chief Jim Warren. She didn't speak to Toyota dealers. It was to a program for the South Florida Women's Business Conference sponsored by the Junior League of Greater Fort Lauderdale. An area Toyota distributor underwrote the \$35,000 for Roberts' speech.



Sam Hundley

My point was that despite ABC's then-new prohibition on speaking to trade associations and for-profit corporations, Roberts had found a way around it.

I will concede that maybe Winternitz knows something I don't and then I will stand to be corrected. Otherwise, such an error weakens his case.

ALICIA SHEPARD  
Arlington, Virginia

## Subservient to power

**"I**t is one of the most awesome and effective propaganda systems that has ever existed in world history." One of the nation's most vocal critics, Professor Noam Chomsky of Massachusetts Institute of Technology, has developed a Propaganda Model showing that the mass media in the United States, far from being defiant of the rich ruling class as generally thought, are in fact supportive of and subservient to those who hold power. The purpose of the media is to cultivate public stupidity and conformity in order to protect the powerful from interference by the masses.

The idea that the media systematically distort the news in the interests of the rich upper class is a very difficult one to accept. Therefore, the question must be asked: To what extent is the Propaganda Model an accurate description of social reality? According to Chomsky, "There are by now, thousands of pages of documentation supporting the conclusions

of the Propaganda Model. By the standards of the social sciences, it is very well confirmed and its predictions are often considered surpassed. I would hazard a guess that it is one of the best confirmed theories in the social sciences."

Chomsky suggests that to gain a true understanding of the propaganda system, citizens need to understand their position in society: They are considered enemy territory by those who run the system.

JOHN CASSELLA  
Durango, Colorado  
Quotations from:  
"Chomsky's Politics"  
by Milan Ra

## Work, work, work

**P**aul Dudley's "J-school reality check" (Quill, September 1996) echoes what I tell reporter candidates fresh from university: clips and Quark. As the editor of a weekly, I welcome applications from recent J-school graduates, but too many of them haven't a portfolio of clips worth looking at—hard copies of class assignments don't count, I'm afraid.

"The opportunities to prepare ourselves are out there," Dudley writes, and he is right. Three often overlooked sources for clips are schools, churches, and nonprofits. Organizations that rely on volunteers assume the public knows all the good work they do. Many J-school students assume a college education is sufficient. Both are wrong, but both could benefit from a union. Walk into any elementary or high school or church and you find almost endless fodder for feature writing skills. Every nonprofit wants a story written about it. A bonus to this relationship is the development of a servant spirit in young journalists, something our profession continually needs to replenish.

As far as Quark or other electronic pagination systems—we have to learn it, master it, then get over it. It's just a tool, but one that weekly and small daily reporters must have before being allowed to continue working into the next century. Familiarity with digital cameras and Adobe PhotoShop are increasingly necessary. In my newsroom, all reporters can paginate and manipulate photos in Adobe as well as write compelling copy. That's the future. And, while J-school students are at it, I'd recommend fiddling around

with an online service, for my reporters are into computer-assisted reporting, albeit through such benign sources as ProfNet and a few other search engines. This is just basic stuff, the tools we use before and after we do what we went to school to do, which is report and write.

The jobs are out there, but they will go to the graduate with a dozen clips, pagination training and online experience and probably to no one else.

RON DELHOMME  
Executive Editor  
The Marco Island (Florida) Eagle

### i before e except . . .

Sadly, I have grown accustomed to seeing violence done to spelling, syntax, grammar and word usage in both the print and electronic media.

But I never thought I would see Quill run a picture of a newsperson holding a plaque "for wounds recieved" (page 23, September 1996 issue). Much has changed in my 75 years, but the last time I checked, received still was spelled with the "e" before "i" in conformance with the slogan "i before e except after c."

ROWENE C. DANBOM  
Denver, Colorado

### Hang down your heads

I feel the entire media should hang its collective head in shame for what is going on in journalism nowadays. The coverage of labor issues is virtually nonexistent, and there seems to be an orchestrated disregard for true, unbiased, balanced coverage of the workers' compensation issue. It seems there is an agenda to promote the gutting of workers' rights.

Nationally, we see insurance company-generated exposés on workers' compensation fraud promulgated by claimants. Many times, tabloid news shows from various networks depict the same undercover investigations done by the same insurer on the same claimants. Not one journalist questions the insurer's statistics, let alone asks if all the films depict workers' compensation fraud or some other form of disability insurance fraud. Nor do journalists find out if the claimant was classified with a total or partial disability. However, weeks later the network picks up the insurer as a major advertiser.

The New York press became a part of

the story in its recent blatant promotion of a state legislature bill that would gut New York's compensation system. Only 10 journalists throughout the state felt fit to depict the claimant's side, even though the bill would affect every worker in New York. Nor did journalists inform the reading public that the bill would force three-fourths of a million injured workers onto the backs of taxpayers in the form of welfare or Social Security.

Continuous efforts were made to supply the press with accurate, unbiased statistics. However, all members of the press chose to use the insurance-generated misrepresentations. As one journalist told me, "Look, we don't want to know the truth; our newspaper publisher is heavily invested in insurance companies."

Two large associations representing the New York press actively campaigned for the bill by joining the group that wrote it. They advised the sponsors on how to go about conducting editorial write-in campaigns to further stack the deck. And any demonstrations or press conferences by labor or injured workers' groups were ignored or belittled. One major newspaper chose to belittle seriously-injured claimants by calling them "show and tell pros."

Nowhere was there a disclaimer about the vested interest newspapers had in this bill. Nor was there any story telling the public that two large newspaper chains were presently in trouble for not providing compensation insurance to carriers.

A major national convention of injured workers' groups was held recently in Pennsylvania. One of the topics was the lack of a free, unbiased, uncensored press in America. Both the local and the national media were invited. None showed up.

'Nuff said.

MARY M. JEFFORDS  
Injured Workers of New York

### Time to speak up

I am deeply grateful to be able to read in Quill about the "silence" which destroys reporters' freedoms.

I am a passionate, accurate reporter. I work for a small national newspaper which gives the financially poor folks a voice. It is the People's Tribune, headquartered in Chicago, Illinois.

For a decade, a statewide group of Maine librarians has given out one yearly Intellectual Award. The award symbolizes the advancing of intellectual freedoms. Stephen King was among the award's winners.

A few years ago I was nominated [for the award], for an article which called for the poor to speak out for themselves. But the committee expressed its sentiment, "that basically the poor—are not entitled to have intellectual freedoms."

I assume others who won were deserving of the awards. It is also time Americans of all classes and races are allowed to speak for themselves!

Some believe the poor also have a freedom of speech! And when that fact is finally recognized by other classes, all Americans will breathe more freely.

JAN LIGHTFOOT  
Hinckley, Maine

### Doublespeak – and we listen

The recent letter from Paul Kleyman on how reporters are overly willing to go along with senior citizen-bashing reminded me of a news conference on entitlement programs held by former Colorado Gov. Richard Lamm during the Democratic National Convention last month. Reporters from *The New York Times* and other leading news organizations were there, mostly to ask him if he would endorse Ross Perot even though he requested that questions focus on entitlements.

Lamm opened with his stock spiel about how the two major parties, particularly the Democrats, are cowardly playing politics and refusing to be honest with voters about the need to cut Medicare and other entitlements. The reporters' questions showed that they fully accepted his premise ("Governor, why are the parties afraid to take on the senior lobby?"), despite the fact that both parties have proposed major cuts in Medicare and Medicaid.

So I asked brave Gov. Lamm how he would go about cutting Medicare and making beneficiaries pay more, when 35 percent of them have incomes under \$10,000 a year and 75 percent have earnings under \$25,000. He replied that he would make millionaires over age 65 pay their own way, an appealing solution until you discover that millionaires account for

a tiny fraction of Medicare costs. I then asked how he would cut Medicaid when experts say that could leave millions more Americans without health coverage. He said he would give states maximum flexibility to run the program. Period. That's a nice slogan, but it's a tad too general for revamping a \$158 billion program that serves the country's poorest and sickest people, especially coming from a guy who's styled himself as an entitlements expert.

So much for straight-talking Gov. Gloom, who the assembled reporters treated as a hero. When I left, after the fifth straight question about Ross Perot, I wasn't sure with whom I was more disgusted.

**HARRIS MEYER**  
Senior Writer  
Hospitals and Health  
Networks Magazine

### Let's get with it

The naiveté of Kris Kodrich and others cited in his article about the Boca Raton News 25/43 Project [July/August] boggles my mind. Lou Heldman, project director, explains that reporters are younger, less work experienced than the average reader, and lacking interest in readers' lives. Only if a cheap, ageist management refuses to hire veterans, I would think.

Ex-reporter John Singh, now with Disney (how fitting), says reporters were frustrated 'cause they needed to be coached how to write a 25-inch story in seven inches. I think any tabloid pro has to laugh at this line.

The story says the project was top-heavy, with high-priced consultants, editors, etc. causing resentment among existing poorly paid staff. Sounds like a repeat of the New York Daily News' ill-fated Tonight edition. Kodrich and the rookies involved in the Boca project probably never heard of that effort. Maybe Kris should study a little history while he goes for his doctorate at I.U.

**DANIEL H. HAYS**  
Yardley, Pennsylvania

### We've lost a friend

Quill's September report on the death of Oregon editor Robert W. Chandler failed to note that he was national president of the Society in 1970-71 and a regional director and board member during most of the 1960s. Bob was a stal-

wart among the dedicated SPJ,SDX leaders who helped guide the Society through years of dramatic change and growth. And he remained a staunch friend to those of us privileged to work with him.

**RUSSELL HURST**  
SPJ Executive Officer 1962-81  
Wheaton, Illinois

### Make your opportunity

I was hired by the first newspaper I applied to after school.

Duane Gordon's letter published in the July/August issue bemoans his jobless state, which he attributes to his lack of an internship.

I didn't intern either. I wish I had. Maybe I'd be making more money on a larger paper. Instead, I'm on staff at a small daily where I have more of an impact on the coverage and the product.

Less than eight months after I was hired, I was promoted to assistant managing editor. That title wasn't handed to me because of awards I'd gotten in college or where I had been published before. It came from hard work on the job.

Many of my friends who interned have higher-paying jobs on more prestigious papers, but I doubt they've had the broad range of assignments and experience I'm getting. I report, take photos, edit, lay out the front page a few times each week, and serve as the editor when he is gone.

My free and unsolicited advice to Gordon is: First, aim for smaller publications. If you really love reporting, bite the bullet. Starting at a smaller paper is not settling if journalism is your true calling. Second, now that you have time, find an internship. I've heard of several that pay better than my full-time job. Third, get a life. College is over and your awards say nothing about how you deal with people, how you write, or how you report. Earning a degree does not guarantee you a job or mean you deserve one.

We shouldn't complain that editors want to hire reporters with experience, although experience doesn't mean someone's any good, either. High standards are great and too often ours are not high enough.

**TODD OVERMAN**  
Gainesville Daily Register

### Dollars over principle

Just when I had begun to lose hope in the future of American journalism, along comes Felix Winternitz to convince me that there are still a few members of the fourth estate who value their credibility and integrity more than they do their bank accounts.

In "Muckraking or buckraking" [July-August], Winternitz lashes out against celebrity journalists who collect hefty speaking fees from corporations, trade organizations, special interest groups, and the like. His criticism of Cokie Roberts, David Broder, George Will, and others is right on target. By accepting large honoraria, these "superstar" journalists not only cast doubt on their own objectivity, but on that of their colleagues as well. Is it any wonder that so few Americans believe what they see on the evening news or read in their daily paper?

I was taught that a journalist's job was to report the facts honestly and objectively, to avoid conflicts of interest, to place the story above personal notoriety, and to act as the public's watchdog. It saddens me to see these principles abandoned for the sake of a few dollars, or a few thousand dollars.

Then again, I am an unabashed idealist, although Steven Roberts would undoubtedly view me as just another "crank."

**MICHAEL PACEWICZ**  
Tahlequah, Oklahoma

### Less and less news

It seems harder and harder each day to find news about people and events in our communities in our newspapers and magazines. So much information is keyed to entertainment instead.

It is no wonder, since a report issued recently by the San Francisco State University department of journalism pointed to a trend in journalism and communications to teach fewer news courses and more classes on news media, marketing and advertising.

This trend explains why major newspapers are suffering subscription declines. Readers want news, not entertainment. Urge members of the journalism community, including members of Women In Communications, to resist this trend.

**HELEN C. SCHUBERT**  
Chicago

### Another chance

Canadian Press got a reprieve August 21 when the country's newspapers ended a threat to pull out of the news agency, giving it until at least next June to restructure, The Associated Press said.

Additionally, David Jolley resigned immediately after seven months as CP's president and Michael Sifton, chairman of Sterling Newspapers, which is part of Conrad Black's Hollinger Inc., became chairman of CP's board. It was Hollinger's Southam Inc. which precipitated the crisis at CP by saying earlier this year it would pull out of the agency by December 31 along with its \$4.54 million a year.

### Price goes to Baltimore

Neither side is talking about the differences in Fort Worth, but Debbie M. Price, who had been executive editor of the Fort Worth Star-Telegram, has taken a job as a general-assignment reporter covering the state for the Baltimore Sun, Knight-Ridder/Tribune Business News said.

In June, Price's attorney, Darrell L. Keith, said she was dismissed May 30, in part over news coverage of the Biosphere project backed by one of the city's wealthiest businessmen, Edward P. Bass. Keith said then that Price "stood up for what she considered to be strong journalism ethics, and when she challenged what she considered to be unethical practices at the Fort Worth Star-Telegram, she was terminated." The newspaper said she remained on the payroll as vice president and executive editor.

### NBC apologizes for Costas

NBC, whose parent General Electric Co. has a large stake in the Chinese market, apologized to Chinese groups for remarks made by sportscaster Bob Costas during the opening ceremonies at the Olympic Games, The Associated Press said. Costas had said, "Every economic power including the United States wants to tap into that huge potential market, but of course there are problems with human rights, property rights disputes, the threat posed to Taiwan."

In a letter written by NBC Sports Vice President Ed Markey to the Chinese, he said, "Mr. Costas did not intend any disrespect to the People's Republic of China

or its citizens," and "the comments were not based on NBC beliefs. Nobody at NBC ever intends to offend anyone."

### Gender gap still evident

Women are covering the big stories on a par with their male colleagues, but beyond that the gender gap remains: Women make less money, fill fewer managerial jobs, and make heavier personal sacrifices, according to a survey by the Association of Women Journalists.

In the money category, the median of the 320 journalists responding was \$60,000, but women are more likely to be making \$40,000 or less and men \$80,000 or more, and four out of five report to a male boss, the survey found.

### Salary increase for grads

A survey conducted by Illinois State University last spring found journalism graduates can expect \$20,000 to begin at the nation's dailies, but they need Inter-

net experience to be hired.

The survey, to which 108 newspapers responded, said copy editors can start at \$21,000 and expect first-year raises. Additionally, 89 percent of editors said they would hire new graduates and they put a high value on campus newspaper experience and internships. In addition to 89 percent of the editors saying Internet experience is important or very important, the study found that editors recommend courses in history, political science, and economics.

### Simpson has media 'hit list'

O.J. Simpson said he plans to sue some media outlets for fabricating "untruths" about him and his life during his double-murder trial last year, Reuters reported. He told a Washington audience August 28 that he and his attorneys had put together "a little hit list" that would be targeted after his wrongful-death civil suit is finished. The only example he cited was an ABC piece by Barbara Walters.

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# Oregon forest fire sparks media-government blaze

BY JIM UPSHAW

An Oregon newspaper's lawsuit against the federal government proves that First Amendment claims can burn as hot as a summer of raging Western wildfires.

On September 9 in Eugene, The Register-Guard filed suit against the U.S. Forest Service, accusing the agency of violating the Constitution, a federal privacy act, and the state shield law when it closed a forest road, arrested two journalists, and seized their notes, cameras, and film.

Reporter Jeff Wright and photographer Anthony Robert La Penna forged deep into the Willamette National Forest August 16 to cover a federal raid on an anti-logging encampment. They were arrested, handcuffed, and held for six hours, but not charged. Forest Service enforcement agents kept and copied Wright's notes and developed La Penna's film.

"I was disbelieving at the time and I'm still disbelieving today that that happened," Wright said.

"What the Forest Service did to two journalists was absolutely over the line as far as the First Amendment to the U.S. Constitution is concerned, plain and simple," said Jim Godbold, the newspaper's managing editor.

In 1991, a fire ravaged 9,000 acres of old-growth forest in the Warner Creek area. Investigators found the fire had been set. Timber companies planned to harvest the damaged trees—a controversial practice called "salvage" logging. But, in 1995, demonstrators set up a camp that straddled the main access route, Forest Road 2408. They built a fort and dug deep trenches across the road. The activists said logging Warner Creek would invite further arson. They maintained their vigil through months of rain and snow.

By August of this year, election-year concerns in the Clinton administration reportedly had helped make the logging unlikely. But the Forest Service decided to remove the demonstrators and repair

Road 2408. The agency closed the road on August 16—and there the controversy begins.

Godbold said his newspaper, aware of other routes into the area, was tipped to the impending raid by activists and confirmed it with the Forest Service by phone. "We'd covered this story from the get-go," he said, "and we weren't about to be shut out of it now." Wright and La Penna drove far into the forest, then hiked four hours. They had reached the protest encampment when they were spotted and arrested.

"The area in which [the journalists] were apprehended was not on the road," said Godbold, adding that unbeknownst to the newspaper, the Forest Service had closed a quarter-mile zone on each side of the road as well. He said that given the paper's relationships with most agencies, Wright and La Penna normally would expect "to get a ride out, not to be put in handcuffs."

The paper's lawsuit contends the closure served not to protect persons or property but only to deny news coverage of government actions, in violation of the First Amendment. The paper said seizure of the notes and film violated protections against unwarranted search.

On August 20, the notes and film were returned to the newspaper. That day, columnist Karen McCowan, in a piece headlined "The Media Are Your Eyes, Ears," wrote that the arrests of her co-workers had brought "pathetically little public reaction." This triggered a rush of reader responses, but McCowan noted in a follow-up column that many of those responses criticized the journalists and pooh-poohed any Constitutional harm.

SPJ condemned the arrests.

"Journalists ought to be able to do their jobs, and it's clear that is exactly what these two journalists were trying to do," said G. Kelly Hawes, SPJ immediate past president. "The forest service should not be making that task more difficult by drawing lines in the sand that journalists cannot cross."

"There seems to be some question

about whether the two journalists went over the line in trying to cover a protest, but there's absolutely no question that the forest service went over the line when it seized the journalists' notes and film," said Hawes. "And that investigators developed the film and reviewed the notes is an outrage."

"The action by the forest service is unconscionable and can in no way be justified by the argument that the notes and film might have produced evidence of trespass," Hawes said. "As the investigators now admit, there was no such evidence and it is unbelievable that the investigators ever thought there might be."

By August 23, Oregon Sen. Mark Hatfield asked the Forest Service's chief, Jack Ward Thomas, for a review of guidelines on treatment of reporters at protest sites. The agency's assistant director of public affairs, Chris Holmes, conceded: "The bottom line is we don't have any written policy regarding enforcement and the media. There was nothing that said [officers] had to allow access. Having said that, our official agency position is: We wouldn't want to do this again."

The government turned conciliatory. The Forest Service joined in a summit with news media managers in Oregon, agreeing to work toward negotiated coverage guidelines. But The Register-Guard went forward with its sweeping lawsuit. Besides proclaiming Constitutional principle, the paper sought payment for lost work time and legal costs and asked that no trespass charges be filed.

Gratified by his paper's action, reporter Wright recalled his arrest in the forest as "surreal." He spoke with a twinge of irony: Just before the incident, Wright had accepted a new assignment to cover religion and values. "One week into the morality beat," he said, "I get arrested."

□

*Jim Upshaw is a former broadcast and print journalist who now teaches at the University of Oregon.*

### U.S. News chief cuts staff

Media critic James Fallows, who assumed editorship of U.S. News & World Report September 9, dismissed Executive Editor Peter Bernstein and Deputy Editor Christopher Ma and several other high-profile editors before he arrived.

Fallows said he made the quick changes so that his arrival "would be less nerve-racking for everyone in the long run. I felt I had enough knowledge to make a choice." Fallows named Harrison "Lee" Raine managing editor.

Among casualties: Steven Roberts, the high-profile political editor who frequently appeared on Washington-based talk shows and has been criticized by Fallows (in his book, "Breaking The News: How the Media Undermine American Democracy") for accepting speaking fees.

Roberts told The Washington Post he wrote Fallows trying to resolve differences, explaining his editors encouraged his acceptance of fees, but Fallows never responded. Fallows said: "On a human

level, I probably should've been more forthcoming with him. I know he has worked like crazy for the magazine. But professionally, our differences were substantial. It was more honest and honorable to say this will not work."

Fallows also named Brian Duffy as national editor, Stephen Budiansky as assistant managing editor of the World section, Jim Impoco as assistant managing editor for Business and Technology, and Erica Goode as assistant managing editor of Culture and Ideas.

### Freelancer sues Thomson

Heather Robertson, a Canadian author, is suing Thomson Corp. and its U.S.-based Information Access Co. for \$100 million (Canadian), saying she is helping to protect the rights of freelance artists in her country, Reuters said. She said the Toronto Globe and Mail began "pressing freelance writers to sign agreements giving away the electronic rights without compensation." □

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# FOIA, it's always there

Debated, disliked, sometimes scorned,  
it remains as a cornerstone of open government

BY PAUL McMASTERS

**T**he Freedom of Information Act was not very popular in Washington, D.C., especially among federal officials, on whose shoulders the burden of compliance would rest.

When President Johnson signed the act into law on July 4, 1966, he chose to do so on his Texas ranch, far from the nation's capital, press conferences and television cameras. No one from the small band of legislators, lawyers and journalists who fought so hard for its enactment was on hand.

The act had only one day to go before dying of presidential neglect in the form of a pocket veto.

Hardly an auspicious beginning for a law that spawned parallel "sunshine laws" in all 50 states. A law that has served as a model for nations around the world trying to make government more accessible and accountable to their citizens. A law that set out to make manifest the Jeffersonian principle of an informed citizenry.

Thirty years later, the friends of FOIA in official Washington remain few and far between and the complaints familiar: The FOIA is an unwelcome drain on scarce resources. It is overused by prisoners and aliens to overtax the system. It is abused by lawyers to circumvent court discovery rules. It is employed by businesses to gain unfair advantage over competitors. It is exploited by journalists to invade personal



privacy and endanger national security.

Those complaints aside, the FOIA has compelled federal agencies to yield millions of documents relating to government operations and performance. Every week, a news organization, scholar or public-interest group somewhere reports information of significance to public health or safety or good governance — based on material gleaned from FOIA requests.

Still, the FOIA has been something of a regulatory pariah over its 30-year history. Congressional oversight and agency reporting have been superficial and episodic at best. Funding has

been inadequate. Compliance has ranged from enthusiastic implementation to sullen resistance to active interference.

From the outset, the FOIA was considered a journalist's tool, but journalists never have made up more than a fraction of the requesters. Most journalists either malign or ignore it. That lack of respect and recognition bewilders veteran FOIA advocates.

"Even when journalists don't use the FOIA, it works for them," said Jane Kirtley of the Reporters Committee for Freedom of the Press. "This law creates a legal presumption of openness and accountability. Given how much of a struggle it is to get access with the law in place, I can't imagine what it would be like if we didn't have that kind of legislative mandate."

Nonetheless, journalistic frustration is sometimes palpable.

"We have been led like rabbits down a hole," said Max Jennings, editor of the Dayton Daily News, which recently published an award-winning series on military courts-martial, despite delay and denial of records from the Department of Defense.

The Daily News has filed suit in U.S. District Court in Dayton, but "the federal judge has delayed rulings in the case for almost a year," Jennings said. "My experience is that the FOIA simply doesn't work most of the time for journalists. There are few news organizations and reporters who have the patience, money and determination to work through what seems an inevitable series of appeals, requests and other roadblocks."

"It's fair to criticize the FOIA," said Robert Gellman, former chief counsel to the House committee with FOIA oversight, "but the act does positive things and it needs to get credit for that." Now a privacy and information policy consultant in Washington, D.C., Gellman pointed out that "more than 90% of FOIA requesters get everything they want. They don't always get it on time or with the fee waivers they are entitled to, but the law works—fitfully, slowly, but it works."

It worked more fitfully and slowly during the 1980s, when administration policy confounded much of the act's intentions.

Then, in October of 1993, President Clinton issued a memo to department and agency heads mandating a new attitude toward the FOIA. "The act is a vital part of the participatory system of government," Clinton said to the officials. "I am committed to enhancing its effectiveness in my administration."

At the same time, Attorney General Janet Reno reversed a Department of Justice policy established in 1981. She said that the department no longer would defend an agency's denial of an FOIA request merely because there was a "substantial legal basis" for doing so.

There was some follow-through.

The Justice Department, under Reno, has made a number of changes, including reducing request backlogs in some areas; reviewing more than 500 pending cases, resulting in the release of a huge volume of material without court battles; and changing a number of department policies to



improve and expedite the release of information.

The Department of Energy has released much more material and changed classification policies in the wake of news stories about human radiation experiments.

On October 16, 1995, Clinton signed Executive Order 12958, which reversed a presumption of secrecy in force for many years and established a mandatory declassification scheme.

On May 16 of this year, Reno surveyed federal agency and department heads to determine how well the administration's access initiatives have been implemented. She said agencies now are getting more information out to the public and that some agencies have begun to reverse the trend of increasing backlogs, although others have not yet been able to do so.

"Progress on fighting FOIA backlogs can be slow, but we keep shining the light on the problem and are committed to improving our performance," Reno said.

While praising these developments, Kirtley pointed out that the Clinton administration's record on access is spotted. The Reporters Committee compiles an annual report on restricting access to government information. The 1996 report lists hundreds of instances when the public or press was denied access.

Over the years, this well-established tradition of governmental resistance to releasing information has generated hundreds of court cases, including more than 20 Supreme Court decisions.

With a few exceptions, court decisions have tended to favor the point of view of

the agencies, especially in cases involving personal privacy and national security, according to Harry Hammitt, editor of Access Reports and a long-time chronicler of FOI legislation and court cases.

"The courts always start off their decisions with lip-service about the FOIA being a disclosure law and that the exemptions should be construed narrowly, then they go ahead and give away the store to the government," said Hammitt.

That tendency is compounded by the fact that "media people usually will not go to court to challenge denials of their requests," said Hammitt. "Reporters are more than willing to go to court, but editors and publishers have decided they

don't really want to spend the money."

As general counsel of the National Security Archive from 1989 to 1994, Sheryl Walter successfully litigated FOIA cases that established significant precedents for ensuring access to records, and now works inside the government as counsel for the Commission on Protecting and Reducing Government Secrecy and serves as president of the American Society of Access Professionals.

Walter agreed that many times "there is a presumption among judges that what the agency did was rational and responsive to the law." But, she added, "In my experience, the courts have been willing to look beyond that and in some cases rule in favor of the plaintiffs. In fact, I've been impressed at how seriously judges take their responsibility and put the government agencies to the test."

In three decades, court decisions, new laws and changing technology have taken their toll on the original promise of the FOIA. Even its most avid supporters concede there are problems that need to be addressed.

Gellman sees the need for "substantive" changes in the act itself. "Some exemptions need to be narrowed. Some need to be eliminated. The law needs to do a better job of describing litigation requirements, and the guidelines for attorneys' fees need to be revised to provide more money for people who win cases."

Some of the more common complaints circulating within the FOI community:

■ The law requires agencies to respond to FOIA requests within 10 days, but actu-

al responses can take years. While there are many reasons for such delays, one important factor is the lack of resources. Agencies simply do not have enough money and people to handle the 600,000 requests that come in each year.

■ There are few incentives for government workers to release information, but they face severe penalties if they release information that is sensitive.

■ Policies on responding to FOIA requests vary widely from agency to agency.

■ There are perplexing contradictions and inconsistencies between language of the FOIA and other laws, such as the Privacy Act, the Computer Matching and Privacy Act, the Government in Sunshine Act, the Federal Advisory Committee Act, the Computer Security Act, the Whistleblower law, and other regulations.

■ An increasing compartmentalization of information and development of external systems of communications allow agencies to circumvent the law.

■ Monitoring of compliance with the FOIA has not been a priority with either Congress or federal agencies, so proposals for legislative or policy changes must rely on anecdotal evidence. Rep. Carolyn Maloney, D-N.Y., has proposed legislation, now attached to the Electronic Freedom of Information Act, that would require better reporting.

Such problems lend impetus to calls for a reduced reliance on the FOIA.

Gary Bass of OMB Watch, a public-interest organization, said computer technology and the Internet offer a great opportunity. "Using FOIA to get information is costly, time-consuming, and really not as useful to the average citizen as it is to others," Bass said. "The FOIA should become the vehicle of last resort for public access. If government did its job responsibly, it would take the initiative in making information available."

Jennings also champions direct electronic release of government information. "It is technically possible in many instances for government to put its records online at the same time they are generated, and then the American people can access them speedily and completely, without interpretation.

"If we could reach national understanding about making all public records available quickly, online, it would eliminate millions of dollars the government now spends processing an avalanche of individual requests."

Despite the promise of technology, FOIA's

## Congress passes EFOIA

For hundreds of journalists attending SPJ's national convention, the news or the timing couldn't have been better—Congress finally passed an electronic update to the Freedom of Information Act.

H.R. 3802 was passed unanimously in the Senate and 402-0 in the House.

Beryl Howell, senior counsel to the Senate Judiciary Subcommittee on Anti-Trust, Business Rights and Competition, said the decision on the form in which records are released is now the choice of the person requesting the records—a key element to the legislation.

She highlighted other key points.

■ Within three years, agencies must provide an index of online records.

■ Agencies must provide guides on how to access information and issue reports on backlogs so a citizen, journalist or researcher will know when to expect a release of information.

■ There will be expedited access for those who can prove a compelling need for a timely release of information. An imminent act of government, such as the closing of a local military base, would qualify as a reason for expedited release.

Despite the historical passage of the bill, there are still critics.

Journalist Scott Armstrong reminded those who attended a Freedom of Information Act panel at the SPJ national convention that government will still balk at the quick release of information because "quick return on information often means trouble." Armstrong is the lead plaintiff in a so-far unsuccessful lawsuit challenging access to White House computer records maintained by the National Security Council.

He stressed that journalists must continue to be vigilant. "The FOI is not an end-all, be-all," he said. "We need activism fixes—mostly from publishers. Convince the public these are important issues. If we don't do it, it's not going to happen."

One remaining irony—those who file FOI requests may not be able to do so electronically. Howell said the bill doesn't address the format of the request only that agencies are "encouraged" to consider those requests filed electronically.

— Kyle Niederpruem  
FOI chair for SPJ

future is fraught with challenge.

Looming large on the horizon are even more intense conflicts between access and privacy concerns. The U.S. government, business interests and electronic industry are feeling increasing domestic and international pressure to be more restrictive about access to government databanks.

Hammitt predicted more court battles over agency records in electronic format. "Who has ownership of these records and what are the obligations of the agency to search for them? Is something government workers download into their computers an agency record? To what extent can an agency trump its obligation to release information by asserting that it is publicly available on a database or the Internet? Add to all this a host of unresolved issues in the area of electronic dissemination of information."

The rush of federal agencies to a paperless government has brought into sharp relief an abysmal record-management sys-

tem. Recent testimony before the Commission on Protecting and Reducing Government Secrecy predicted massive costs and slowdowns in access to records unless government records management systems are brought into the 21st Century.

Despite these problems and challenges, Walter remains positive about both the FOIA's past and its future.

"The thing that strikes me is that over these years, the FOIA has stood the test of time. It has been a model all over the world. It has a heritage all the way back to the Magna Carta. More importantly, it has made a difference in how the people view the government and how government views its responsibilities to the people." ■

Paul McMasters is the First Amendment Ombudsman at The Freedom Forum, a former national president of SPJ and served five years as SPJ's National FOI Chair.

# The day LBJ signed FOIA

No pens, no ceremony, no hoopla,  
just another quiet day at the ranch

BY LOTTE E. FEINBERG

**E**arly Monday morning, on July 4, 1966, as the Texas sun rose to what soon would be 94 degrees and a heat wave blanketed much of the United States, Lyndon B. Johnson breakfasted in his bedroom at the Johnson ranch, then went into his wood-paneled office where his secretary was waiting.

Marie Fehmer, as usual brought from Washington her worn, oversized, government-issue briefcase stuffed with official papers. The papers the President had to deal with this day were stacked on his massive desk, as always, in neat piles in order of importance. On the top, near the center, was enrolled bill S. 1160, known as the Freedom of Information Act, a contentious piece of legislation that had taken more than a decade to make its way through Congress to the White House. This was the last day for action on the bill. Signed, it would become law and take effect in a year. Unsigned, it would be a pocket veto requiring no further action since Congress had adjourned.

The four preceding days had been for the President a hectic but typical mix of private meetings, telephone calls, whistle-stop political events, and ceremonies, leaving little time for reflection.

The President and Mrs. Johnson, their daugh-

ter Luci and her fiance, a few members of the President's staff and some friends had flown to the ranch late Thursday evening, June 30th, after a workday that had begun for the President at 7:38 that morning with telephone calls to Vice President Hubert Humphrey and Postmaster General Lawrence O'Brien. By mid-morning, Johnson had presided over the swearing-in of Richard Helms as CIA director, taped a statement on Medicare for later broadcast, and met with his agriculture secretary to discuss American financing of U.S. equipment for an Italian auto plant in the Soviet Union. He met, off-the-record, for twenty minutes with his Deputy Special Assistant for National Security Affairs, Robert Komer, who had just returned from Vietnam, held a private bill-signing ceremony to establish the Chamitzal National Memorial in El Paso, Texas, and had a number of telephone conversations with members of his cabinet and staff.

Shortly before noon that Thursday, the President and his party left Washington for his Texas ranch, accompanied for part of the trip by a number of congressmen and the agriculture secretary. On the way, they landed first in Omaha. As television cameras rolled, the President observed the loading of grain on a barge bound for India. Next stop was the

# What Johnson said

*This is the statement released by the White House July 4, 1966 when President Lyndon B. Johnson signed the bill creating the Freedom of Information Act.*

The measure I sign today, S. 1160, revises Section 3 of the Administrative Procedure Act to provide guidelines for the public availability of the records of Federal departments and agencies.

This legislation springs from one of our most essential principles: a democracy works best when the people have all the information that the security of the nation permits. No one should be able to pull curtains of secrecy around decisions which can be revealed without injury to the public interest.

At the same time, the welfare of the Nation or the rights of individuals may require that some documents not be made available. As long as threats to peace exist, for example, there must be military secrets. A citizen must be able in confidence to complain to his government and to provide information just as he is—and should be—free to confide in the press without fear of reprisal or of being required to reveal or discuss his sources.

Fairness to individuals also requires that information accumulated in personnel files be protected from disclosure. Officials within government must be able to communicate with one another fully and frankly without publicity. They cannot operate effectively if required to disclose information

prematurely or to make public investigative files and internal instructions that guide them in arriving at their decisions.

I know that the sponsors of this bill recognize these important interests and intend to provide for both the need of the public for access to information and the need of government to protect certain categories of information. Both are vital to the welfare of our people. Moreover, this bill in no way impairs the President's power under our Constitution to provide for confidentiality when the national interest so requires. There are some who have expressed concern that the language of this bill will be construed in such a way as to impair government operations. I do not share this concern.

I have always believed that freedom of information is so vital that only the national security, not the desire of public officials or private citizens, should determine when it must be restricted.

I am hopeful that the needs I have mentioned can be served by a constructive approach to the wording and spirit and legislative history of this measure. I am instructing every official in this Administration to cooperate to this end and to make information available to the full extent consistent with individual privacy and with the national interest.

I signed this measure with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded. ■

Des Moines Municipal Airport. A waiting motorcade took the President and his guests to inspect livestock feeding operations and then to a "photo op" at a tenant farmer's corn field.

By late afternoon, the President was motoring back to downtown Des Moines through an enthusiastic crowd to attend an early evening reception at his hotel for about 200 people. Between the reception and a fund-raising dinner, he held a twenty-minute, off-the-record meeting with six editorial staff members of two local papers. At 10:22 that night, he was back aboard Air Force One heading to San Antonio, switching at Randolph Air Force Base to a helicopter for the last part of the journey to his ranch.

On the flight to Texas, the President spent most of the time napping but did sign two bills. One bill extended the Renegotiation Act, while the other extended the Federal Reserve's authority to purchase U.S. bonds from the Treasury. The next three days were filled with the usual as-

sortment of work, telephone calls, visits with friends, the July 2nd celebration of Luci's birthday, and church on Sunday.

Then, as the Independence Day weekend came to a close, quietly and without any fanfare, the President signed into law the Freedom of Information Act along with two other measures, a bill setting up a task force to work on the problems of children who were handicapped or in need of development assistance and an Executive Order dealing with water pollution.

At 10:12 that Monday morning, some 75 miles away in San Antonio, Johnson's press secretary, Bill Moyers, held a very brief news conference for reporters. Less than a year earlier, Moyers, when asked by a counsel to the President for his reactions to a House version of the FOIA, had penned in a note that he believed "we should continue to oppose the (FOI) legislation." Now, he simply announced that the "so-called Freedom of Information bill" had been signed into law, along with three other legislative proposals and an Executive Order.

The news conference itself was desultory. Questions were short, answers shorter. Reporters were as interested in why the President had decided not to attend the governor's conference ("I wasn't a part to that conversation.") as in whether Moyers would comment on a Communist Chinese statement that the United States was planning to send ground forces into Laos. ("No.") One of the two "major" questions was whether Luci was at the ranch ("Yes").

The President called Moyers briefly both before and after the news conference. In between, he went to his pool where he "puddled around" and received telephonic calls from some of the guests who would lunch at the ranch later that day. He and Mrs. Johnson spent much of the rest of the day with their guests, Mr. and Mrs. Stanley Marcus, Mr. and Mrs. Arthur Krim, Mr. and Mrs. Harris Melaskey, and Judge and Mrs. Irving Goldberg.

Stanley Marcus, an old friend, was the president of the retail chain Neiman-Marcus.

cus; Mr. Melaskey was vice president. Arthur Krim, a newer friend and important Democratic fund-raiser, later headed the Democratic National Committee and was chairman of Orion studios. His wife, Dr. Mathilde Krim, became well-known in the 1980s for her scientific work with AIDS and her skill raising AIDS research funds. Judge Goldberg had recently been appointed by the President to the U.S. Court of Appeals, Fifth Circuit for the term beginning in 1966.

No photographers were at the ranch on the Fourth; they had the day off. None of the FOI bill's sponsors were invited to witness the signing. They had not even been called and informed that the bill would be signed even though Johnson often made it a point to inform sponsors in advance when he was planning to approve or veto significant legislation. There was no bill-signing ceremony, despite urgings by some of the White House staff as well as some members of Congress and their staffers. When presented with the option, the President had explicitly scrawled "no ceremony" on a June 24th memo that outlined the value of one. No commemorative signing pens were distributed or even ordered. At the press conference, even the traditional statement accompanying the bill was absent, though Moyers promised it would be available later in the day.

Other than noting that the bill was signed into law on the last possible day before an automatic veto would have gone into effect, there was nothing to reflect the turbulent history that had marked the 12-year struggle between the legislative and executive branches to determine whether Congress or the president would control public access to government-generated records. The very quietness of the signing belied the fierceness with which some members of the White House staff, executive branch agencies, and the Justice Department had sought to block this legislation. There were no fingerprints to show the role Johnson had played in the drama before placing his signature on the bill and no public indication, then, to show that it was the President himself, who, contrary to practice, had done the final, extensive editing of the FOIA signing statement that accompanied the new law.

The FOIA was landmark legislation, changing fundamentally the way executive branch agencies handled their records. It was designed to be a disclosure statute,

resting on the radical premise that government agencies presumptively were to make their records available "on request" to "any person." The new law did, however, provide nine categories of records that could be exempted from disclosure, such as those properly classified as in the interest of national defense or foreign policy, personnel and medical records that would invade personal privacy and records compiled for law enforcement purposes.

The FOIA amended section 3 of the Administrative Procedure Act of 1946. This act had been an earlier, unsuccessful, congressional effort to insure that agency records would be easily available to the general public. Instead, agencies quickly came to use the statutory language to limit access to their records. Phrases in the act such as "directly and properly concerned" and "information held confidential for good cause found" became tools for denying requests for agency records. Equally important under the APA, once an agency had refused to release the records, there was no appeal process.

The changes brought by the FOIA were resisted strenuously across much of the executive branch. From June 1964 through October 1965, as it became increasingly likely that the FOIA eventually would reach the President's desk, the Bureau of the Budget sent a series of memos to the White House detailing its concerns with and objections to the proposed legislation. For example, in June 1964, the budget bureau cited "strong opposition" to the bill on the part of agencies. A March 1965 memo regarded the bill "as threatening a serious legislative encroachment on executive power..." It was feared that "rigid statutory standards or Executive Orders" would "leave no latitude for discretion, either as to content, timing, or the persons having right to access..." An October 1965 memo urged "continued opposition to this legislation."

But, by 1966, there was a marked change. Justice, the budget bureau and the executive branch agencies, though still expressing serious reservations, were agreeing cautiously that the bill should become law. The State Department gave the clearest explanation for the changed attitude in a June 1966 memo, which said it was "informed that the possibility of veto of this bill is improbable."

By the end of June 1966, the budget bureau and Justice had concluded, with

reservations, that the President should sign the FOIA. However, based on memos written a month earlier in May about a possible bill-signing ceremony, it seems likely that Johnson had decided to sign the bill.

Despite their changed position, neither the budget bureau nor Justice were willing to recommend forthrightly approval of the bill. Justice wrote instead, that it "does not urge withholding of Executive approval." "Constitutional issues" were still a concern. Specifically, the bill could lead to the "invasion of the constitutionally-derived responsibility of the Executive to protect from disclosure" those records it judged "the public interest requires to be held confidential." A second concern was that "final responsibility" for these decisions could be transferred to the courts. Nonetheless, it found both "the principle of freedom of information and minimizing secrecy in government" deserved "Executive support." Similarly, the budget bureau based its support on the conclusion that "the principle underlying the bill is a sound one, basic to our philosophy of government."

The signing closed one important chapter in this struggle and simultaneously opened the next: making the FOIA work. It would take another six years before the act was first amended (1974) and began to work as Congress had intended.

But as of July 4, 1966, efforts to rewrite the laws controlling access to agency records—initiated in the 1950s first by the American Society of Newspaper Editors, Harold L. Cross, and Sigma Delta Chi (The Society of Professional Journalists), and then picked up and nurtured by Congressman John E. Moss and (sequentially) Senators Thomas C. Hennings Jr. and Edward V. Long, their staffers and a bipartisan Congress—began to change the landscape of government. The vision, shared by James Madison, Thomas Jefferson and Patrick Henry—that a strong democracy depended on an informed electorate—had come one large step closer. ■

*Lotte E. Feinberg is a professor of public administration at John Jay College of Criminal Justice. This is excerpted from her forthcoming book, In the Public Interest, to be published by The Free Press. Research was supported in part by grants from the Lyndon Baines Johnson Library and the National Endowment for the Humanities.*

# Hall of Fame

## 24 named for their FOIA roles

*A coalition of media organizations last month named a Freedom of Information Act Hall of Fame to honor some of those individuals who have helped to develop and defend the Freedom of Information Act, FOIA Amendments and the Electronic FOIA before Congress. The Freedom Forum was the host for an event in their honor. Here are brief sketches of the 24.*



**Samuel J. Archibald**

As chief of staff of the Government Information Subcommittee in the House, he helped draft the original FOIA legislation. A former reporter with the Sacramento Bee, he was hired by Rep. John

Moss as an aide and became a key player in Moss' investigation of government secrecy, which led to FOIA. He later became director of the Washington office of the University of Missouri Freedom of Information Center. He now is writing a book about state access laws.



**Scott Armstrong**

Both as a Washington Post reporter and as founder of the National Security Archive, his aggressive and ground-breaking use of FOIA set a standard for investigative journalists

throughout the country. He used FOIA to investigate U.S. policy issues.

He sued the Reagan and Bush administrations for withholding records and is suing the Clinton administration. The Reagan-Bush suits helped establish the principle

*Phil Hart*  
that electronic information should not be destroyed.



**Sen. Hank Brown**

Co-sponsor, along with Sen. Patrick Leahy, of the Electronic FOIA, he is the principal Republican legislator identified with preserving the rights to freedom of information, which he

has championed throughout his career representing Colorado in the House and Senate. He is a member of the Senate Judiciary Committee, which has jurisdiction over EFOIA. A 10-year veteran of the House, he has announced he will leave the Senate this year after one term.



**Harold L. Cross**

He is widely credited with being the author of the language of the FOIA. His 1953 book "The People's Right to Know: Legal Access to Public Records and Proceedings," written as legal counsel to

ASNE, laid the groundwork for the legislation. ASNE President James Pope lauded the book, the first ever published by ASNE, as presenting "a vision clearer than ours" and as a "potent manual-of-arms" for battle. Cross was legal counsel for the New York Herald Tribune and served on the faculty of the Graduate School of Journalism at Columbia University.

**Lucy Dalglish**

Now an attorney with a Minneapolis law firm, Lucy Dalglish is a former journalist who has testified before state legislatures



and congressional committees about access to government information and government secrecy. She has spoken throughout the United States on FOIA issues and served three years as national chair of the Society of Professional Journalists

Freedom of Information Committee.



**Earl English**

Dean of the University of Missouri School of Journalism and founder of the university's Freedom of Information Center in 1958, he testified extensively before numerous Senate committees in the '50s and '60s on the need for

FOIA. He vigorously pushed the Missouri congressional delegation, particularly Sen. Edward Long, to pass the necessary legislation. What, he asked, was the point of training reporters to look for information if the information itself was not made available?



**Rep. Dante Fascell**

A key member of the House Government Operations Committee and the Government Information Subcommittee this Florida Democrat worked with Congress

man Moss to win concessions from the executive branch during the time FOIA was being developed and adopted. A champion of sunshine laws, he consistently fought for the preservation of FOIA throughout his career and spear

headed legislation to open House committee meetings to the public. In 1984 he helped pass a law to open executive agency meetings as well. Retired in 1992 after 38 years in Congress, he is an associate in a Miami law office.



**Paul Fisher**

Director of the University of Missouri Freedom of Information Center for 31 years and a protege of Earl English, the founder, he worked with English to persuade Missouri senators to vote

for FOIA legislation. As head of the Center, he established freedom of information as an academic study and opened the Washington office of the university's FOI Center.



**William H. Hornby**

Former editor of the Denver Post, ASNE president (1979-80) and chairman of ASNE's FOI Committee (1973-75), he worked with Ed Murray to pressure Congress during the 1974 fight for

added FOIA legislation, leading the successful effort to override President Ford's veto. He helped spur editorials and news stories in more than 50 newspapers throughout the country.



**Jane E. Kirtley**

Executive director of the Reporters Committee for Freedom of the Press since 1985, she has been a tireless defender of FOIA, through articles, speeches and in testimony before Congress.

Under her direction, the Committee operates the FOI Service Center, with a hotline for journalists, and publishes a booklet spelling out FOIA strategies. A reporter-turned-lawyer, she is an adjunct professor at the American University School of Communication.

**Jack C. Landau**

An award-winning journalist as well as a lawyer, Jack Landau was the first executive director of the Reporters Committee



for Freedom of the Press, serving for a decade until 1985. He was an early and effective advocate for journalists to access government information under the Freedom of Information Act, and testified before Congress on several occasions. In

the early '80s, the Reporters Committee under Landau's direction assisted in filing more than 600 FOIA requests during one 18-month period and participated in filing a number of legal briefs in access cases. He helped establish the Freedom of Information Service Center.



**Sen. Patrick J. Leahy**

The principal sponsor of the Electronic FOIA and a consistent champion of FOI rights throughout his 22-year career in the Senate, he is considered FOIA's best friend in Congress today.

This Democrat from Vermont has fought repeatedly for electronic amendments to the act and stood against attempts by colleagues to narrow FOIA's scope. In 1983, he introduced legislation for quicker access to certain records, as well as a statute to prevent businesses from delaying release of non-confidential documents. Passage of EFOIA, he believes, will improve public accessibility and reduce delays.



**Sen. Edward Long**

As chairman of the Senate Subcommittee on Administrative Practice and Procedure of the Senate Judiciary Committee, Long headed the committee that reported out to the Senate the bill that

was to become the Freedom of Information Act. Congressman Moss' committee had been working on a bill, which was from the press perspective a better idea, but Moss decided not to risk unfriendly amendments and the House adopted the Senate bill without change. Thus it was the version by Sen. Long, a Democrat from Missouri, that became law in 1966.



**Paul K. McMasters**

As First Amendment Ombudsman of The Freedom Forum and one of the nation's experts on First Amendment and FOI issues, McMasters, a 31-year veteran of journalism, works to educate

the public about free speech and free press issues in Congress, the courts and the media. He has written and spoken extensively about the Freedom of Information Act and testified before congressional committees on access issues on several occasions. He served as chairman of the National FOI Committee for the Society of Professional Journalists, 1987-91. He won the Wells Memorial Key, SPJ's highest honor, in 1990, primarily for his work on FOI issues and served as SPJ's national president in 1993-94.



**Rep. John E. Moss**

He was the legislative father of FOIA. As chairman of the House Subcommittee on Government Information, Congressman Moss was the chief catalytic agent in Congress over the 11-

year period of the bill's development and eventual passage. A Democrat from California, Moss arrived in Congress in 1953 as no particular advocate of the media's right to know. He became a staunch convert when civil service representatives testified that the Eisenhower administration had fired disloyal government employees and then refused to give out their names.irate at what seemed to him a blatant abuse of executive privilege, Moss set up a new special subcommittee, installed himself as chairman, named Archibald his chief of staff, and launched exploratory hearings into the issue of the availability of information from federal departments and agencies. The bill went through the Senate first, then the House.



**J. Edward Murray**

Associate editor of the Detroit Free Press and ASNE president (1972-73), he headed the campaign to strengthen the FOIA with the 1974 amendments. Along with William Hornby of the



Denver Post, he pushed for ASNE members to assert pressure on Congress, and to run editorials in support. When President Ford vetoed the legislation as "unconstitutional and unworkable," Murray stepped up his campaign for editorials and pressure. In November 1974, the veto was defeated 371-31 in the House and 65 to 27 in the Senate.



**Virgil M. "Red" Newton Jr.**

Managing editor of the Tampa Tribune, an early advocate of federal legislation to limit government secrecy, Newton was credited with first bringing FOI to the attention of Sigma Delta

Chi/Society of Professional Journalists. He chaired the society's national FOI committee, 1952-63, and served as Sigma Delta Chi national president, 1959-60. James Pope praised him as "fiery and outspoken," a man with a "built-in blaze of fury for concealers of public information," whose speeches brought FOI to the attention of many public officials for the first time. Newton is credited with helping Moss draft language for the original FOI bill.



**Jean Otto**

The founder and president of the First Amendment Congress, Otto was a long-time editor and reader representative at the Rocky Mountain News. Throughout her career,

she has been an untiring and eloquent advocate for First Amendment and freedom of information rights. She led a national effort to have March 16—the birth date of James Madison—designated as Freedom of Information Day. Those efforts resulted in a Congressional resolution signed by President Reagan. Otto helped organize the Wisconsin Freedom of Information Council and is the founder of the Colorado Freedom of Information Council. She is a former president of the Society of Professional Journalists.

**James S. Pope**

Editor of the Louisville Courier-Journal, president of ASNE (1954-55), and chairman of the ASNE FOI Committee, he began



advocating the concept of the FOIA a decade before it was enacted. Along with J. Russell Wiggins, he pushed strenuously for adoption of legislation, mobilizing editors through ASNE and testifying constantly before Congress. Pope and Wiggins rejected many attempts to create laws that did not live up to their dream, until satisfactory legislation finally emerged.

Dr. Harold C. Relyea



**Dr. Harold C. Relyea**

A specialist in American government with the Library of Congress Congressional Research Service, his detailed reports of how journalists use FOIA have supported efforts to preserve and

expand it. He has been responsible for principal research and collection of FOIA data for the past 25 years. Over the years, he has played a strong role in the formulation of government information policy, during the time of the 1974 and 1986 amendments, the 1976 Government in the Sunshine Act, and more recently in the campaign to pass EFOIA.



**Bruce W. Sanford**

The general counsel to the Society of Professional Journalists, he has helped coordinate and lead legal and legislative efforts to protect and strengthen FOIA, playing a major role in

opposing congressional attempts in the mid-'80s to broaden the law enforcement exceptions to the act. He joined SPJ's freedom of information team in 1981, and has regularly assisted SPJ officers and FOI committee members in preparing statements on key First Amendment issues.



**Richard M. Schmidt Jr.**

ASNE legal counsel since 1969, he has guided ASNE efforts in connection with the 1974 amendments and the 1996 EFOIA. A former reporter who also worked

in broadcast news, he was working with USIA when FOIA was signed into law. In 1974, as ASNE counsel, he went to the White House to fight for the FOI amendment, only to discover that President Ford had vetoed it as "unworkable, probably unconstitutional." Undaunted, he set out his arguments, which Ford greeted with, "You may be right." He then helped Murray and Hornby orchestrate the successful campaign to override the veto, drumming up editorial support around the country.



**Sheryl L. Walter**

Walter has been an advocate of freedom of information both inside and outside the federal government. While serving as general counsel of the National Security Archive from 1989-1994,

she played a major role in successfully litigating FOIA cases that established major precedents for ensuring public access to the records of federal agencies, affirming the rights of authors, free-lance writers, and publishers to have fees waived under the act. Her work helped establish the principle that electronic mail can be a federal record subject to FOIA requests and preservation under the federal records laws. Now legal counsel for the Commission on Protecting and Reducing Government Secrecy, she also serves as president of the American Society of Access Professionals.



**J. Russell Wiggins**

Former editor of the Washington Post and ASNE president (1959-60), he was an early advocate of FOIA, and along with Pope, one of the principal movers and shakers pushing for its

adoption. He testified extensively before the Moss committee. He drew up the ASNE Declaration of Principles in 1957 to lay down the gauntlet. "ASNE," he wrote, "must stand guard for the right to know, fighting measures that restrict it at home or abroad particularly withholding of information at a local, state or federal levels."

# How citizens make the act work

Non-journalists shop for government information whether buying locomotives or rerouting highways

BY MIKE WARD

**S**ince it was signed into law on Independence Day 1966, the result of years of lobbying by journalists, the federal Freedom of Information Act has been used thousands of times each year—by the volumes, literally—to lift the veil of government secrecy.

By reporters. And by the public.

Citizens, ranging from corporations to civic organizations to watchdog groups, use the act every day—to find pollution in their back yards, to exercise their constitutional right to lobby Congress, even to help buy railroad locomotives.

Sometimes with success. And sometimes without.

## FLORIDA

### A 17-year FOIA odyssey

The request was simple enough.

Send me copies of your files on Cuban exile leader Ronaldo Masferrer, Gordon W. Winslow Jr. asked the Central Intelligence Agency in 1977, as part of historical research he was doing.

Masferrer was once considered by some to be the third most-powerful man in the island nation's pre-Fidel days, as a former Cuban senator and leader of a group of armed men who, before 1959, had fought guerrillas commanded by Fidel Castro. After fleeing to Miami, he became an anti-Castro activist and, in 1975, was killed by a powerful dynamite bomb that was wired to the ignition of his automobile—a still-unsolved Miami slaying.

Winslow wanted to know what ties Masferrer—one of the most fervent anti-Castro exile leaders, known as El Tigre (The Tiger)—might have had to the U.S. government. But the government wasn't talking.

"I got nothing back," Winslow said of his request. "So every April I would send them a letter saying 'I'm still here. I'm still waiting....I wanted them to know I was still there.'"

About two years ago, Winslow said the CIA notified him he was 365th on a list of pending FOIA requests. "So I wrote them back and said, 'Okay, if I'm Number 365, who are the others and how old are those requests?'" he said.

In June 1995, a package arrived unexpectedly in the mail. Inside were several hundred pages of declassified documents on Masferrer.

"Seventeen and a half years is a long time," Winslow said, unsure whether his request may have set a record for length—and, maybe, patience. "(Using the act) can be a discouraging process."

Even so, Winslow continues to use it—as he has for years, in hundreds of requests with a variety of different agencies, for a variety of files for personal historical research. And sometimes, in his official capacity as archives manager for Dade County courts system in Miami.

In 1989, as part of an effort by court officials to recover missing court files of historical significance, he filed an FOIA request with the U.S. Secret Service seeking to get back court files concerning assassin Giuseppe Zangara.

Zangara, a 32-year-old bricklayer, fired four shots at President-elect Franklin Roosevelt's motorcade in 1933 in Miami. Chicago Mayor Anton Cermak was killed and four people were wounded. Roosevelt escaped unharmed. Zangara was found guilty of murder and was executed about a month later.

Winslow said a Miami court order showed that a Secret Service agent had checked out Zangara's death warrant and some other court documents in 1954 but never had returned them. Unfortunately, he said, the FOIA request failed to turn up the missing documents.

### MICHIGAN Used locomotives for sale. With FOIA

Where does the discerning railroad executive go when shopping for used locomotives?

To the Surface Transportation Board in Washington. And the FOIA.

Just ask Bob Nadrowski, a vice president for the Wisconsin Central Railroad, which operates a 2,500-mile Upper Midwest system of track and has been one of the biggest U.S. purchasers of used locomotives in recent years.

"We use it to find when a locomotive was purchased, who holds the paper on it . . . make sure there is a clear title . . . (and) other information that can give us an idea of what it may be worth," he said. "We have found (the FOIA) very useful."

Wisconsin Central operates a fleet of about 230 locomotives, most of them used and then reconditioned. Prices for a used locomotive can top \$100,000.

The paper trail works like this: Most railroads purchase locomotives through lease agreements with banks and other financiers. Since the early 1950s, federal officials said, copies of those agreements have been filed with the transportation agency—known until January as the Interstate Commerce Commission.

Thousands of the "trust agreements" are on file. And as many as 4,000 more are filed each year—for locomotives and all types of railcars purchased with financing, said Vernon A. Williams, secretary of the Surface Transportation Board.

In fact, while some prospective locomotive buyers use the FOIA while shopping, Williams said it is not a necessary tool. The

trust agreements are publicly available at the agency's records library.

### WASHINGTON Gas blasts and a product-liability bill

Earlier this year, when the final rewrite of the federal product-liability law came out, the analysts at Citizen Action, a Washington-based watchdog group, quickly spotted some curious new wording that had been added behind closed doors.

It gave special protection for natural gas explosions.

"We were sure a natural gas lobbyist had it put in the conference report," said Rich Vuernich, legal policy director for Citizen Action. "We had to find out how significant it was."

First step: FOIA the U.S. Department of Transportation for pipeline reports detailing recent explosions across the country—where they occurred and when, what happened, the numbers of fatalities and injuries, how much damage occurred.

From that came 40-plus pages of documents that Citizen Action then used to lobby lawmakers and the White House against the bill, to underscore its contention that it was improperly loaded with special-interest provisions.

"Having that information made our efforts considerably more effective," Vuernich said, noting his organization regularly used the FOIA to get documents and data from federal agencies as part of its oversight role. "We could show that the bill had been tinkered with . . . that it was not the bill that it was said to be."

Congress was unswayed. Approved by both the Senate and House, the bill was vetoed in May by President Clinton.

### MARYLAND A paper trail of community activism

Almost from the time the two-mile-long Maryland highway project was announced in 1988, something just didn't seem right to its neighbors.

They were troubled about the politically potent developers who had bought land in the area. And about whether the announced plans of state highway officials were real, or whether they were just a cover story for some behind-the-scenes deal.

FOIA time.

Using the act, community groups in Howard County, Maryland, received reams of documents about the project from the Federal Highway Administration in Washington. They asked state highway officials and other agencies for their files.

"If you ask for the documents from enough agencies, and if you ask enough times, someone will slip up and give you enough documents so you can figure out the total picture," explained Susan Gray, an attorney who worked with the groups.

At one point, the citizen researchers pushed a baby carriage when they showed up at agencies to look at documents. Once they got permission to copy records themselves, to avoid costly copying fees officials sometimes used to thwart their work, they would produce a portable copier from inside the carriage—and go to work.

"We copied probably 5,000 pages of documents ourselves," Gray said. "We became the standard joke — 'They've got a baby carriage here and they're making copies' — but it worked."

Through their extensive research and litigation, community activists say they were able to confirm their suspicions. Price tag on the short road project has risen to \$200 million—turning what was once a two-lane road into, as Gray describes it, "a freeway with enough space to accommodate eight to ten lanes."

They also detailed, she said, that more intense land use along the road was planned all along—as the neighbors suspected.

"I can't say enough good things about the FOIA process," Gray said. "It's extremely effective if you know the tricks of the trade."

Judy Robinson, past president of the Prince George's Civic Federation in a nearby county, agrees. Her 68-year-old group, one of the nation's oldest coalitions of community watchdogs, has used it—sometimes with success, sometimes without.

Several years ago, to check allegations that pension funds at a county-owned hospital had been improperly lent to former county and state officials and their relatives, they filed a FOIA with the U.S. Department of Labor, which monitors pension funds.

Result: Zippo.

She said the federation has used state sunshine laws to document how a local mayor charged more than \$1,500 in car repairs and other personal items on his city-issued credit card. And to uncover a sweetheart deal involving the lease of a city building.

"We used FOIA to determine who the officers were of this trust, which the city had sold this building to," she said. "And that led us to eventually find out what had happened...information our taxpayers should know."

Robinson, a secretary and mother of a college-age daughter, has become a strong advocate of FOIA laws—state and federal—even though she insists bureaucrats too often thwart the intent.

"The FOIA is for many, many, many more things than just the release of information to journalists," Robinson said. "Except for some personal records that maybe shouldn't be open, no government should be able to deny you information about what it is doing. "They shouldn't even be able to tie it up."

**CALIFORNIA**

**Uncollected royalties on federal lands**

The report was a sure-fire attention-grabber for taxpayers: Between \$400 million and \$1.4 billion in oil royalties on federal lands may have gone uncollected since 1985, thanks to inaction by U.S. bureaucrats.

In California alone, the uncollected tally could top \$440 million.

To come up with those startling numbers, highlighting another example of government inefficiency, the Project on Government Oversight relied on a familiar tool of their watchdog trade: The FOIA.

"It's an incredibly important law," said Danielle Brian, the Washington-based group's executive director. "The biggest problem with it is that bureaucrats can still hide behind exceptions... But that's not the fault of FOIA at all."

Brian's private non-profit group should know. It uses the act more than a dozen times each year. Several years ago, while it was known as the Project on Military Procurement, it uncovered the now-famous case of Pentagon's buying of gilt-priced toilet seats and \$999 pliers.

The dollar signs were big, as well, in the case of federal oil royalties.

In recent years, she said, California and several other states have moved aggressively to collect unpaid oil royalties. Alaska alone has collected the most so far: \$3.7 billion.

"The successful efforts put forth by states lie in stark contrast to the lack of effort made by the Department of the Interior," Brian said.

Recently, after several years of prodding, Interior department officials announced they would attempt to collect \$440 million in unpaid royalties from oil companies operating on federal leases in California.

Based on its research, including FOIA-accessed documents that fill two file cabinets, Brian's organization said that is too little. It estimates the federal government is owed \$1.5 billion in royalties and interest on California leases since 1960—an argument bolstered by estimates from Interior department consultants that \$856 million is owed since 1978.

Armed with those numbers, the Project on Government Oversight is pushing federal officials to step up their collection efforts—a push endorsed by Rep. Carolyn Maloney (D-N.Y.) who complains: "The states have done a remarkable job...At the same time, the federal government has been idle."

For taxpayers, Brian said the bottom line is big dollars. Big dollars for the federal budget.

"In the current political environment of budgetary constraint and fiscal austerity, the collection of this debt is a moral imperative," Brian said.

**TEXAS**

**Clearing the air about cement kilns**

The fight began with a newspaper ad.

In 1989, when two cement-manufacturing plants near Midlothian, Texas, announced plans to store hazardous waste at their sites, residents began asking why.

The answer was simple: While the plants had been burning hazardous waste in their kilns for some time, they now needed permits to store the toxic stuff.

"A lot of people were surprised that hazardous waste was being burned. The companies had been calling it fuel recycling," said Jim Schermbeck, staff organizer for Downwinders At Risk, a coalition of PTAs and community groups that is fighting the plans. "There were a lot of questions."

As concerned residents found little comfort in the assurances of company officials and government regulators that the incineration of toxins would pose no health risk, they wanted more details.

For them, they looked to the FOIA.

By examining filings and permits with the U.S. Environmental Protection Agency,

citizens in the town of 5,200 people just south of Dallas were able to ascertain such things as the types of toxins that would swirl from the cement kiln's smoke stacks when hazardous waste was incinerated.

And, they received details about pollution from the other two cement plants in town and other local industries, as well.

One example: In 1991, Schermbeck said, the community groups sought EPA filings about a steel company.

After their FOIA request made its way "up the food chain to D.C.," through numerous denials for some documents and subsequent appeals, Schermbeck said the EPA released more than 100 pages of documents that, among other things, showed that radioactive scrap had been melted down at the plant. And that there had been problems with disposing of the by-product: radioactive dust.

While those might seem like insignificant details to some, for Schermbeck and other citizen activists on environmental issues such minutiae can sometimes prove vital in protesting permits or prodding regulators and companies to clean up pollution in their communities.

A few parts per billion, you see, can sometimes make a big difference.

Mention the FOIA in Texas, and folks ranging from Schermbeck to neighborhood activists in Austin who in 1991 successfully fought to relocate a polluted cluster of gasoline terminals know how to use it.

The same holds true across the country among environmental activists.

"Particulate matter, stacks test results, permits—a whole variety of information is available through FOIA," said Neal Carman, clean air director for the Sierra Club in Texas, who has worked with Schermbeck and other community groups on pollution issues in Texas. "It can be very helpful."

But increasingly, Schermbeck and Carman say, as federal environmental regulators cede regulatory power to Texas and other states, state public records acts are becoming just as important for the public's right to know.

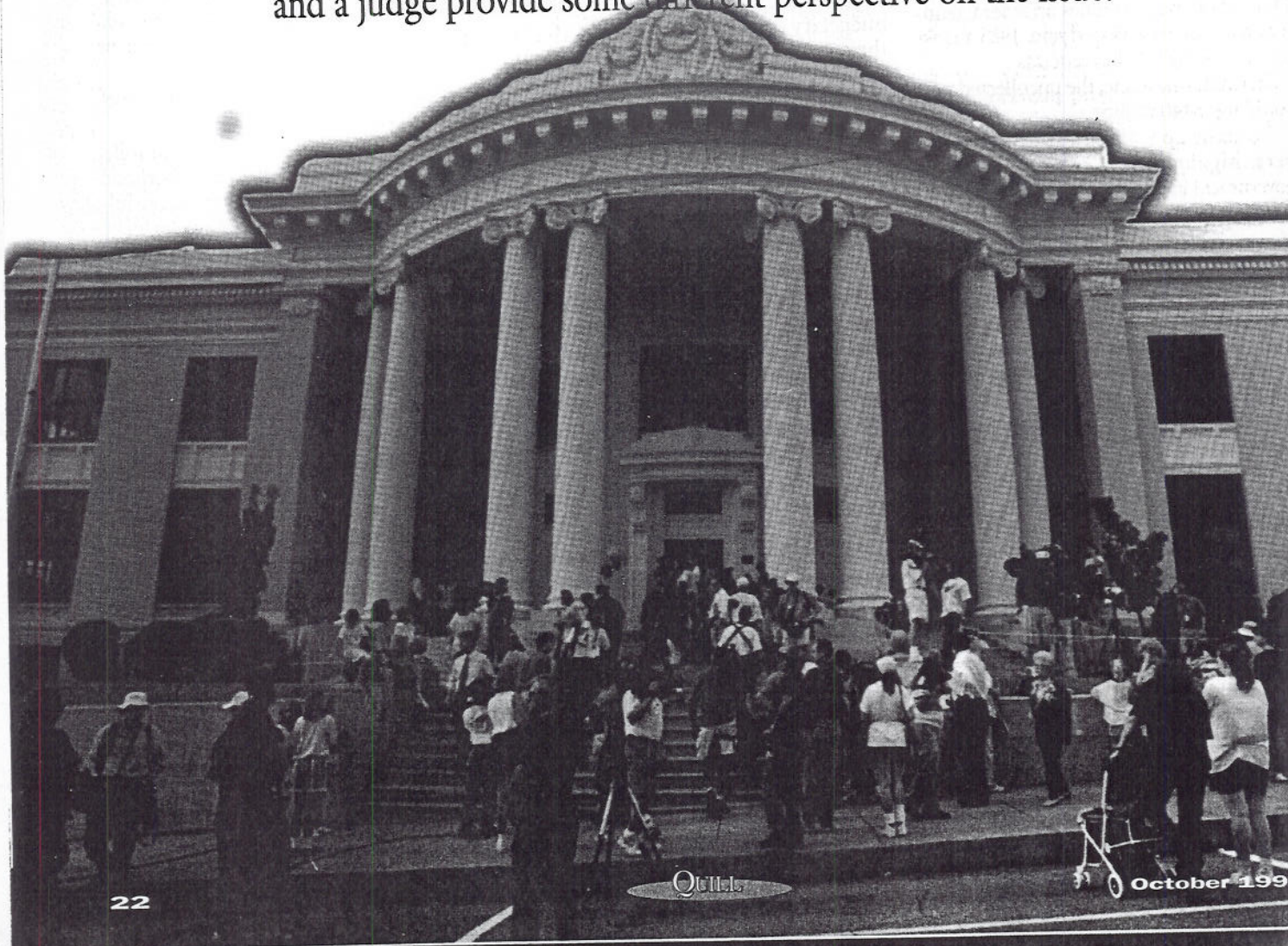
"For communities facing these issues, getting access to all the information is important," Carman said. "People in neighborhoods should have the right to know about their environment." □

*Mike Ward is a reporter at the Austin American-Statesman and Sunshine Chair for Texas.*

# Cameras in the courtroom



High-profile trials such as O.J., the Menendez brothers and Susan Smith have put them in the spotlight. A lawyer, a television producer and a judge provide some different perspective on the issue.



# Journalists can be obstacles to access in the courtroom

## We must put aside competition

BY CYNTHIA GLOZIER

More Americans have been exposed to the judicial branch of our government in the last five years than ever before. Much of the credit goes to Steven Brill and his team of Court TV lawyers and journalists.

They, and our nation's fascination with the O.J. Simpson criminal trial, have shed light

on a segment of our government that has been shrouded in mystery by lawyers and judges. But the light is like a candle aboard a small ship in the middle of a dark and stormy ocean. It is little more than a flicker, and there are plenty of forces working to extinguish the flame.

Most aspects of our judicial system, including the Supreme Court and the other federal courts, are closed to camera coverage. Worst of all, some of the most intelligent and articulate among us want to keep it that way. How can that happen in a democracy where open government is supposed to be supreme?

The answer lies in a divided news media and a threatened legal establishment. The camera, our strongest tool for showing people the successes and failures of our justice system, is caught in the middle of a power struggle. The only way to settle that struggle is to take the issue directly to the people. After all, the people pay the bills for the judicial system.

Journalists must unite as representatives of the people and campaign for laws that clearly establish the presence of the camera in every courtroom in America. We cannot continue to allow judges to edit the coverage of the courts of our nation. Our court system belongs to the people, not the judges, lawyers, or media companies. We cannot forget that lest we all lose.

In some ways journalists are the biggest obstacles to cameras in the courtrooms. To



begin with, we don't agree the camera should be there. That disagreement hampers the freedom of information movement.

In the early days of the Simpson criminal trial, a Court TV cameraman mistakenly caught the profile of an alternate juror in a shot from the courtroom during the lawyers' opening statements. Judge Lance Ito threatened to throw the cam-

era out for good and ordered Court TV to court the next morning.

Within an hour I had received several disturbing phone calls from media organizations who said our network could not use the services of First Amendment lawyer Kelli Sager to try to turn the camera back on. They said, firmly, that Sager worked for them and she could not work for Court TV.

Sager was regarded as the lawyer in Los Angeles most likely to persuade Ito to keep the camera in the courtroom. She and another talented lawyer, Karen Frederiksen, went to court the next day despite the phone calls I received. Sager spoke for open government and the camera was turned on again. Sager also spoke for all of us in the news media—print, broadcast or electronic.

I never have forgotten those voices who, in another time and place, would proclaim their support for freedom of information. You can't have it both ways, I say to them now. You can't abandon open government for a competitive edge, no matter what fame or money that edge may give you.

There is a combination of schizophrenia and hypocrisy among journalists when it comes to cameras in the courts. Amid the Simpson madness, when we all were disturbed by what the camera had shown us, Don Hewitt, executive producer of 60 Minutes, announced his opposition to televised trials.

This leader in our industry, this crusader against government corruption and for

access to information, attacked the messenger when the substance of the message became uncomfortable.

This lack of unity among journalists fuels efforts by some members of the legal establishment to keep the camera on the courthouse steps. Until recently, judges and lawyers have operated under a system that more resembled a club than a branch of government. Most of the legal establishment is not used to public scrutiny and sees no need for it. That attitude creates serious problems because judges are given authority by law to decide whether to allow cameras in "their" courtrooms.

So, before a trial begins, television journalists often are forced to strike compromises with judges. The constant fear of losing camera access prevents a fair scrutiny of the public servant in charge of the judicial proceeding.

If you think about it, you'll remember that not too many television journalists reported in detail on the poor performance of Judge Ito during the Simpson trial. We were all too afraid the well-meaning but hot-tempered judge would throw the camera out of the courtroom for good. He had that authority under California law.

So, who loses when journalists and the legal establishment fail to agree on the camera issue? By now, we all know the disagreement seems to have little impact on the media giants. In true capitalistic fashion, the big networks, and even Court TV, have taken a basic right—to know how our government is working—and figured out a way to get rich off it. They are good, really good, at taking what belongs to the people, packaging it, and then selling it back.

In some ways they've taken "the American way" and turned it against the American people. The public is more aware of this than the media moguls want to believe. Viewers and readers are turning to the Internet in increasing numbers in search of news reporting free of filters. They want access to original sources to make their own decisions.

That same desire drives the public's fascination with a simple camera in the courtroom. When you lose the reporters and commentators, the camera is the ultimate original source. Sometimes, as in the Simpson case, the unadorned truth about our system is frightening. But, isn't the truth what journalism is supposed to be about?

In a perfect world, no one would get rich



off reporting how our three branches of government work. Journalists and advertising salespeople would make a good living, and the profits of their work would be plowed back into informing the public. There would be no multimillion-dollar television anchors, no rich media CEOs and no demanding media shareholders.

There would be a nonprofit television network for each branch of our government, including our judicial system. In the fashion of C-Span, those networks would be long on showing how each branch works and short on commentary.

In that world we would not have to debate the merits of "civic" or "public service" journalism. Every word, every photograph, every second of video, and every camera shot would be in the public interest.

Young people would view journalism as an opportunity for public service rather than a shot at stardom. The public would trust us to carry out our First Amendment obligations. There would be a clear line between information and entertainment.

I challenge my friends in the news media to embrace the ideals of journalism. I urge those who have proven that court coverage can be lucrative to take some of that money and finance a united campaign to put the question of cameras in the courtroom before the people.

The laws that govern coverage of our courts should be changed. Camera access decisions must be taken out of the hands of judges, many of whom were appointed and prefer to remain remote from people who pay their salaries. Reform must begin with journalism where, on this issue, we must put aside our competitive battles.

We need to let people know that journalism drives democracy as a provider of vital information. Everyone—voter, taxpayer and journalist—should think for a moment about why our country was founded.

If the king had let his subjects vote on how to run the kingdom, things might have been very different. We're here now because he didn't.

We have an open government that responds to change. Our judicial system is part of that government. We need to see all of it. □

*Cynthia Glozier was supervising producer for Court TV at the O.J. Simpson trial. She is a member of the SPJ Ethics Committee and a graduate student at Columbia University.*

# We pursue different objectives . . . . . . they aren't always compatible

BY WILLIAM L. HOWARD

Early in my judicial career, I watched a senior judge grapple with a motion to close his courtroom. As the attorney for the local newspaper arose, he argued "Your honor, you should not close the court to these reporters. After all, the people have a right to know!" Just as vigorously, the judge leaned forward over his gavel and replied, "The people may have a right to know, but your clients have no obligation to tell them!"

That comment in many ways personifies the thinking of many members of the trial bench. Among the judiciary, there is a distrust of the news media because we cannot impose a frame of reference upon journalists or control what they say. As a case unfolds, the judge's perception may differ dramatically from the reported story. Naturally, we think we are right, and the news media is wrong.

If we're so beaten and bedraggled, misquoted and misunderstood, why is there resistance to the light of the television camera? Obviously cameras cause added logistical problems such as space in the courtroom or adequate electrical outlets. But there may be a deeper, more philosophical basis for our reluctance. Let's begin with a reality check.

We probably can agree that neither attorneys (including judges) nor journalists (including television journalists) are held in the highest esteem by "them" (the public).

It recently has been noted that now, when we are so well "liked" by all, could be our most opportune time to work in a spirit of cooperation and mutual respect.

The truth is we simply are fulfilling our roles in this free society. Is it reasonable to expect "likability" for an attorney whose role it is to:



■ Question everything (sometimes ad nauseam).

■ Argue the absurd in pursuit of an unpopular client.

■ Anger the opponent by winning, the client by losing, or both by compromising.

Is it reasonable for a judge to expect deification for giving a second chance to any criminal (except, of course, if it happens to be a member of MY family)?

Finally, who loves the journalist for questioning the unwilling about the derogatory in pursuit of the unholy (truth).

We pursue different objectives and they are not always compatible. It is in the recognition and understanding of the fundamental differences in our purposes, and a mutual respect for their importance, that common ground can be found.

We live in a sound-bite era, where television filters information into neat twenty-second time slots. Quick information, quick decision. As law students, our training is the opposite. We are taught the importance of analogical analysis in the application of existing law to a new set of facts. We develop a healthy respect and appreciation for this concept, known as "stare decisis." Shakespeare's famous quote about killing all the lawyers is in recognition of the fact that lawyers protect against anarchy by working out human problems through a formal legal system developed over hundreds of years. We do not think of our legal system as "just another story." We recognize it as a most fundamental necessity of our civilization. We also know that it is wholly ineffective if the people have no confidence in it.

Unquestionably, the more people are exposed to and educated about the legal system the better it will work. Without argument the more its deficiencies are uncovered, the stronger the incentive to correct that which is broken. That makes for a healthier legal

system.

But the converse also is true. People often form judgments based upon incomplete or inaccurate information. If viewers see only a selected part of a proceeding, such as a particularly entertaining portion of a witness' testimony or a lawyer's final argument, and if it is transformed into importance by repeated emphasis, the reality is distorted. When it is visualized, rather than verbally summarized, it becomes an unalterable vision of truth.

Predictably, if the verdict does not mirror this view of reality, the conclusion is that the system does not work.

When coverage of a trial is skewed by replay of events taken out of context or if hired "experts" continually lambaste trial participants to feed their own egos—in short, if the circus comes to town—there is no positive image of the judicial system. Many judges quickly conclude this coverage is the inevitable outgrowth of allowing cameras into a high-profile trial because the TV station is profit-motivated. It is "just another story," to be covered in whatever way will capture the attention of the most viewers. Exclusion of the camera may be seen as a declaration that "we" are above that, dedicated to effecting a fair trial.

In many ways this may be a temporary retreat based on recent events. But when you understand this judicial perspective, you can see ways to fight the negative response.

Recent gatherings of judges and journalists in the wake of several high-profile trials have been particularly enlightening because we have been able to look at our actions and peel away the layers until we see the profound consequences of what we do.

Sometimes we fail to speak the same language. One disturbing trend in the wake of the Simpson trial seems to be the zealous protection of the fair trial right by closing the courtroom, using the same analysis employed to exclude cameras without realizing the major difference between the two.

Our appellate courts have made clear the sanctity of open courtrooms and the analysis required before one should be closed. Yet it is amazing how often discussions blur the lines. The journalist analyzes the problem of cameras from a constitutional perspective. The judge equates the closing of a courtroom to the less stringent requirements necessary for excluding the camera.

Sometimes the decision to remove the cameras may result from what seem to jour-

nalists like little things not a major issue.

For example, I swear there is a secret mandate that photographers wear jeans and a T-shirt. Many courtroom camera rules contain dress codes. Failure to comply seems like a small infraction. But if you consider the infraction in the light of overall concern that cameras may contribute to a decline in respect for the judicial system, the infraction seems larger.

In the Susan Smith case, I allowed the cameraman to augment the courtroom lighting. The next time I entered that historic room, there were huge canned lights dangling from the ceiling. I could feel the heat when they were on. I felt judicially violated. That unacceptable little word "Hollywood" entered my mind. Might it, (unconsciously, of course) have played a part in my final decision to exclude cameras?

Actions outside of the courtroom also are important. Most media representatives easily handle camera pooling requirements inside. I know of no judicial complaints. Why not consider camera pooling on the courthouse grounds to reduce the morass of equipment, people and confusion? I know, I know. You can't possibly do that and still compete with the other stations. But really, folks, is your ten-second interview that much more interesting than the others? Doesn't it make more sense to set up one camera and one microphone in a designated place, and pool the material? With that one concession, would you not drastically reduce the necessity of having your satellite truck parked next to the courthouse?

Defining the "controlled" area known as the courthouse often is difficult.

Once the camera is allowed in the proceeding, does that mean it is all right to film conversations in the hallway? Again, court rules usually explain that cameras only are permitted in the courtroom. But often the camera crew isn't aware of the distinction.

Where is the public domain in which a judge cannot stop the news media?

In most judicial settings, the presiding judge at the trial also is responsible for dealing with issues that involve the courthouse. The amount of exterior equipment needed to support the electronic media in the Smith case required re-routing traffic and closing streets. This led to irate letters about legitimate business concerns from the establishments affected—a problem that was distracting, time-consuming, and unnecessary for the judicial process.

Judges need educating too. Many of the assumptions upon which we base our decisions are outdated or false. At a recent conference I asked why the rules for a television pilot program in another state forbid the photographing of jurors. Most state rules forbid this except in an out-of-focus background. No one had an answer.

In the Smith case, we went out of our way to assure anonymity for the jury, including an elaborate scheme to assure privacy after the verdict. The jurors were taken by law enforcement officials to an undisclosed location and told they could come back to the courthouse to be interviewed by the news media if they chose. Most beat law enforcement back and appeared on national TV within a few days.

If we subscribe to the premise that the physical presence of the camera quickly is forgotten and the air of importance it brings to the proceeding is not an improper influence, perhaps we should re-think protecting the jury. In real life experience, it does not seem to be warranted. In fact, we try to impress upon jurors the importance of their role. Most respond to this civic duty with a heightened sense of responsibility and are proud to participate.

The same is true about our fears of pre-trial publicity. The truth seems to be that few people read or watch news with any degree of concentration. Fewer still, retain what they have read or seen. Even in death penalty cases with extensive pre-trial publicity, a week before the trial, it has been my experience that only a few people remember hearing anything about the case. More importantly, jurors really do take seriously their obligation to decide the case based only upon the evidence. Why is it we strive to find intelligent, civic-minded jurors, yet expect them to live in a vacuum until we need them? Judges are required to disregard extraneous matters while deciding non-jury cases everyday. There is no training for this, other than an understanding of the rules of evidence. They simply do it as a part of their cognitive thinking capability. Is a juror any less able to do so?

One difficulty for the journalist is knowing what proceedings are scheduled when. There are as many methods for handling dockets as there are court systems. Most have evolved over many years, but are at the same time subject to modification by the administrative judge within the system. Some are much more formal than others.

Some judges are happy to answer a ques-