
THE BRECHNER REPORT

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Residents criticize commission for taxpayer-funded outings

COOPER CITY — An overflowing crowd attended a Cooper City commission meeting to both confront and support commissioners who spent more than \$5,000 in the past two years on taxpayer-funded meals.

At Gov. Jeb Bush's request, the Florida Department of Law Enforcement is investigating whether commissioners violated the Sunshine Law

or became intoxicated at their pre-meeting dinners.

Mayor Debby Eisinger said the commissioners will no longer dine before meetings and intend to pass an ordinance prohibiting city officials from charging taxpayers for dinner.

Eisinger earlier defended the practice, saying the meals fostered camaraderie among city officials and staff, according to the *South Florida*

ACCESS MEETINGS

Freelance journalist remains in jail for protecting outtakes

SAN FRANCISCO — A freelance journalist who refuses to testify before a grand jury and turn over outtakes of his video footage remains in jail after his request for an en banc review of his case was denied.

Josh Wolf filmed an anarchist protest in July 2005. Protesters and police clashed in the violent protest. Federal prosecutors are

trying the case and say that the outtakes of the footage could identify some demonstrators.

A lower court cited Wolf for contempt, and that ruling was upheld by a three-judge panel of the 9th Circuit U.S. Court of Appeals. Wolf could be jailed until July, when the grand jury's term expires.

REPORTER'S PRIVILEGE

Courtroom recording systems raise record issues

PANAMA CITY — Judges of Florida's 14th Circuit have temporarily allowed for the public release of audio recordings of court hearings, pending a final decision on whether the recordings are public records.

The interim order came as the result of a request by *The News Herald* (Panama City) to access the recording of a Dec. 11 criminal court hearing. The newspaper was denied access to the recording by Court

Administrator Jennifer Wells. Wells contends that the recordings are "work product" and should remain private.

The 14th Circuit has been installing CourtSmart recording systems in its courtrooms since 2002. For now, the public can access the recordings if they make the request in writing and submit a blank compact disc. Employees have up to 72 hours to fulfill the request, which costs \$15.

COURTS

No charges in Yankeetown

YANKEETOWN — Following a six-month investigation by the Florida Department of Law Enforcement, Yankeetown officials will likely avoid prosecution due to a lack of evidence that they violated open government laws.

State Attorney Bill Cervone has not made a final decision on whether to prosecute, but one of his offices already declined to prosecute.

The investigation came after residents accused town officials of violating the Sunshine Law by meeting with developers who want to build a riverfront resort in the town. Preliminary discussions between the mayor and town attorney regarding the legal format for the development proposal apparently did not violate the Sunshine Law.

Investigators found that no conflict of interest existed as a result of a town council and planning board member having property under contract to the developers.

Residents also reported seeing officials destroying public records. The FDLE accounted for originals of the development-related documents.

Federal court gives FOIA suit another chance

WASHINGTON D.C. — A Cox Newspapers' Freedom of Information Act lawsuit against the Department of Justice was improperly dismissed at the trial level, a federal appeals court has ruled.

Cox wants access to a database containing identifying information about

illegal immigrants convicted of crimes who served time in prison. The Justice Department denied the request, citing the privacy rights of the convicts.

The three-judge panel for the U.S. Court of Appeals in Washington D.C. ruled that unresolved factual issues called for the case to be returned to the trial

court.

The DOJ argued that some of the individuals in the database could have been improperly listed as illegal immigrants.

Cox said it avoided requesting information about a person unless the individual had already been deemed an illegal immigrant.

CIA redacts portions of column

NEW YORK — *The New York Times* published a redacted version of an opinion piece written by a former CIA analyst, after the CIA publication review board asked that portions of the article regarding American-Iranian relations be deleted.

Flynt Leverett, former senior director for Middle East affairs at the National Security Council, authored the column. Leverett said that none of the redacted portions of the article contained classified information. Former Foreign Service

officer Hillary Mann co-authored the article.

Leverett also said the White House told the publication review board to censor parts of the commentary.

A White House official denied Leverett's claim that the censorship was politically motivated.

As a former CIA employee, Leverett is required to submit manuscripts for pre-publication review. Leverett said this is the first time the CIA has asked him to alter a manuscript.

Government drops demand for document leaked to ACLU

NEW YORK — The federal government subpoenaed the ACLU for a classified document received by the civil liberties group, but a month later agreed to make the document public.

The ACLU opposed the U.S. attorney's office's request for the four-page document. The document describes the military Public Affairs Office's guidelines for photographing prisoners of war and detainees in Iraq.

The document was declassified after

the Department of Justice requested that the ACLU return it and destroy all copies.

After the declassification, the Department of Justice wrote to a federal judge that the subpoena was sent because the ACLU requested one in lieu of cooperating.

"It shows the level and scale of the overclassification problem," said ACLU Executive Director Anthony D. Romero. "Here is a perfect example of a document that shouldn't be classified."

Grand jury seeks reporter phone records

WASHINGTON D.C. — The U.S. Supreme Court has rejected *The New York Times*' request for emergency protection from a lower court ruling allowing federal prosecutors to review phone records of two reporters.

A Chicago grand jury is investigating two Islamic charities. The government canceled raids on the charities after reporters Judith Miller and Philip Shenon called for comment prior to the planned raids.

The Times has refused to reveal who gave the reporters the information about the charities. The newspaper argued that the phone record review would reveal the identities of confidential sources unrelated to the investigation of the charities.

In August, a federal appeals court overturned a lower court's ruling and found that the grand jury needed the reporters' evidence to pursue its investigation.

Miller is no longer at *The Times*.

Prosecutor will stop altering informant records

MIAMI-DADE COUNTY — Miami-Dade court officials will stop their practice of altering court records to protect informants. In a letter to

Florida Supreme Court Chief Justice R. Fred Lewis, Miami-Dade

State Attorney Katherine

Fernández Rundle defended the practice but agreed to find other ways to protect informants.

The practice was brought to light by *The Miami Herald*, whose stories on secret dockets eventually led to a statewide inquiry by Lewis into improper sealing of court records.

The Florida Bar has recommended rule changes that would require a public hearing before the sealing of a court record. Fernández Rundle objected to the proposal, saying it would impede

investigations and endanger informants.

"It appears the state attorney is admitting that she and others in the judiciary have simply ignored a criminal statute that flatly prohibits the falsification of judicial records," said Miami First Amendment attorney Thomas Julin.

South Florida members of the Florida Public Defenders Association also expressed concern about the practice, calling for an independent investigation.

COURTS

Woman's relatives sue aggressive talk show host

ORLANDO — Relatives of a woman who committed suicide the day after being interviewed by CNN talk show host Nancy Grace have sued the television personality and the network.

Grace interviewed Melinda Duckett about the disappearance of her 2-year-old son, Trenton Duckett. Grace

aggressively questioned Duckett regarding her whereabouts the day the toddler was reported missing.

Duckett shot herself the next day, and CNN aired the show after Duckett's death.

The attorney for Duckett's estate said Grace misrepresented the reason for

the interview and improperly interrogated Duckett, pushing her over the edge.

The lawsuit alleges wrongful death and intentional infliction of emotional distress, according to the *Orlando Sentinel*.

Trenton Duckett was last seen Aug. 27, 2006. He remains missing, according to the *Sentinel*.

REPORTER'S PRIVILEGE

Judge: Reporter must testify

MIAMI — A federal judge ordered a *St. Petersburg Times* reporter to testify at a \$12 million white-collar fraud trial. A partner at the law firm GrayRobinson was also ordered to testify at the trial.

U.S. District Judge Jose E. Martinez rejected William Levesque's claim of reporter's privilege and David Hendrix's attorney-client privilege claim.

Levesque interviewed one of the defendants in the wire fraud case for a November 2004 article. The *Times* chose not to appeal the ruling.

There was not a confidential source to protect in the case, according to Alison Steele, attorney for the *Times*. "There is nothing about this case that invokes the intense scrutiny that confidential sources and threats of prison do," Steele said.

Lawmakers hesitant about post-disaster meeting changes

BROWARD COUNTY — County commissioners want Florida's Sunshine Law changed to make post-disaster meetings easier to coordinate.

Commissioners cited difficulties meeting after major hurricanes because of the state's tough Sunshine Law.

The Broward County commissioners suggested relaxing notice requirements, permitting

teleconferencing and allowing meetings in venues that aren't large enough for the public to attend.

ACCESS MEETINGS

But local lawmakers were hesitant about the new exemptions, according to the *South Florida Sun-Sentinel*.

Local government leaders' requests for exemptions and the erosion of the Sunshine Law are troubling, according to State Rep. Jack Seiler, D-Wilton Manors.

Court changes attorney ad rules

TALLAHASSEE — The Florida Supreme Court has approved new rules that require attorneys to get approval from the Florida Bar prior to airing radio or television advertisements.

Current rules require ads needing review to be filed with the Bar no later

than the date of publication or broadcast. These rules will remain in effect for all media except radio and television.

The court deferred its ruling on Internet advertising by lawyers and law firms because a special committee is currently studying the issue.

FIRST AMENDMENT

Judge rejects employee's free speech claim after termination

TAMPA — A former county worker who claims the government infringed on his First Amendment rights by firing him was unsuccessful in his attempt to appeal the dismissal of his case.

Gary Mitchell worked part time for Hillsborough County and often operated cameras during meetings of the county commission.

During an April 2002 meeting, Mitchell spoke as a member of a political support group. Mitchell addressed former

Commissioner Ronda Storms and made graphic remarks about female genitalia. The county then fired him.

Federal Judge Gerald Tjoflat called the remarks "sophomoric" and wrote in his opinion that "there is nothing in the content of Mitchell's speech that communicated anything of value to a matter of public opinion."

Tjoflat deemed the remarks a personal attack on Storms, not speech protected by the First Amendment.

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Proposal doesn't account for victims who want to talk

Nothing irks me more than non-reporters who think they know how reporters do their jobs. Take the inept legislators at the Virginia state senate, particularly Sen. Ken Cuccinelli.

Word is that he has proposed a bill that would essentially make it illegal for a reporter, or anyone else, to step on the property of someone who has recently undergone a personal tragedy or lost a loved one.

According to Marc Fisher at washingtonpost.com, Cuccinelli refers to those of us who have dared to talk to the families of victims as “scuzzball reporters out there who don’t have a shred of human decency to give a flying rat’s tail about the condition or feelings or circumstances of families.”

The Back Page

By Joe Strupp

As often happens, the politician who proposed this doesn’t know what he is talking about. Like most reporters, I have had many moments during my time at four newspapers that called for approaching families of the recently deceased.

No fun, of course, but often quite necessary. Contrary to what many believe, most reporters do not bang on the door and obnoxiously demand interviews. When I had to approach people after they had suffered a loss, I respectfully called or knocked on the door, identified myself, and asked if they would speak for a few minutes. If they declined, I left them alone.

But I was always surprised to find out that, most often, they wanted to talk. And, unlike the common wisdom that reporters ask, “how do you feel,” I never did. I believe most others likely did not either. My first question was always, “tell me about the person.” And people felt grateful to be able to take time away from focusing on the person’s death and give some attention to his or her life.

I remember knocking on the door of a family in Berkeley Heights, N.J., during my time at the *Daily Journal* in Elizabeth to interview relatives of a teenager killed in an auto accident. Her father and brothers could not wait to brag about



Joe Strupp

her and give their memories. One said she “would light up a room,” a quote that became the headline.

Later, when I worked in Fremont, Calif., a nearby Union City school board member who lost a son to a motorcycle accident answered the door in tears and asked for a hug. She then went on to talk about what a good kid he was and how this would spark her to push for helmet restrictions for motorcycle riders.

There are at least a dozen other examples from my career in which I knew asking for some time to speak to the family made them feel better. And made

for a better, complete story.

It makes one almost wonder during these times of anti-press sentiment among many elected officials if this is a true belief by a politician that grieving families are being wrongly approached — or if it is just another way to limit press freedom.

Next, someone will try to make it a crime for a reporter to approach a politician outside of the capitol or city hall, or at home.

Several public officials have already chosen to limit which reporters to whom they will speak. You may recall former Maryland Gov. Robert Ehrlich’s edict years ago that his staff could not speak to two writers at *The Sun* in Baltimore because he didn’t like their reporting. I called Ehrlich “Crybaby of the Year” for his tantrum. If the Virginia legislature actually puts Cuccinelli’s idea into law, they may take the prize for “Bonehead Move of the Year.”

So, to the legislators who are considering such a misguided proposal, I say: Please do some research on how such reporting is actually done before you act, and how it benefits both readers and victims’ families.

Joe Strupp is senior editor at Editor & Publisher. This piece originally appeared as part of his “Get Me Rewrite” column at www.editorandpublisher.com. It is reprinted with permission.

*Editor’s note – According to an *Associated Press* report, Cuccinelli was unable to find any support for his bill.