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# THE BRECHNER REPORT

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## Commissioners caught on tape

BUNNELL – State Attorney John Tanner ordered an investigation into a lunch break discussion between two Flagler County commissioners, Pat McGuire and Jim Darby. An official tape recorder accidentally left on by the clerk of the court apparently captured the commissioners discussing a vote on a controversial noise ordinance after a commission meeting adjourned.

### ACCESS MEETINGS

According to transcripts, McGuire asked Darby, “Why did you

not offer a motion? I was going to vote with you. I just wasn’t going to do it by myself.” Later, Darby said, “I wasn’t trying not to compromise, I was just going to make you make the motion. I apologize we got it stalled.” After some garbled conversation, Darby is heard saying, “In fact, I can always put it back on there for reconsideration.”

McGuire and Darby said that they didn’t believe they violated the Sunshine Law, since the vote was over. However, the commissioners attempted to reconsider the noise ordinance they had voted down after the lunch break.

Hutch King, another Flagler County commissioner, offered to resign from the commission and walked out of the meeting when the commission decided to revisit issue. His letter to the state attorney prompted an investigation into the incident. (5/11/02 – 5/22/02)

### SPECIAL REPORT

A review of FOI issues in Florida and the nation, including our annual Legislative Review, p. 3-7.

## DCF opens files in missing girl case

MIAMI – The Florida 3rd District Court of Appeal reversed a lower court ruling and released all the papers in the Department of Children and Families file of Rilya Wilson, the 5-year-old girl whose disappearance from the foster care system went unnoticed for more than 15 months.

Miami-Dade Circuit Judge Cindy Lederman released almost 1,000 pages of court documents earlier, citing “great public interest” in learning about how DCF had handled Rilya’s case. However, she withheld documents pertaining to the criminal investigation, saying that the records were exempt from the public records law. CNN, *The New York Times*, the *Orlando Sentinel*, the *South Florida Sun-Sentinel*, *Dateline NBC* and Miami’s WTVJ appealed, arguing

that the law only exempts police files during a criminal investigation, not social service agency records. Assistant State Attorney Penny Brill argued that Rilya’s interests were more important than the public’s right to know about the case. The appellate court judges disagreed, and released the records.

Records revealed a court memo from Sept. 4, 2001, seven months before the agency reported the girl’s disappearance to police, stating that no one knew where the girl and her sisters were. Additionally, memos indicated that DCF workers were aware that GERALYN GRAHAM, the woman who claimed to be Rilya’s paternal grandmother and with whom the child was placed, suffered from hallucinations and paranoia. (5/24/02 – 5/26/02)

### ACCESS RECORDS

## Library filter law unconstitutional

PHILADELPHIA– A three-judge panel found a law that requires libraries to use Internet filters to prevent patrons from accessing objectionable material at the risk of losing federal funding violates the First Amendment.

The Child Internet Protection Act, which was signed into law by President Clinton in December 2000, was designed to prevent children from accessing pornography over the Internet. Under the law, libraries receiving federal funding had until July 1 to institute “technology protection measures” to block or filter Internet access to obscene Web sites and other Web sites harmful to minors. The legislation was challenged by The American Library Association, the American Civil Liberties Union and a variety of Web site operators.

In his opinion, Justice Edward R.

Becker said, “[b]ecause of the inherent limitations in filtering technology, public libraries can never comply with CIPA without blocking access to a substantial amount of speech that is both constitutionally protected and fails to

meet even the filtering companies’ own blocking criteria.” The judges

held that less restrictive means are available to libraries, including optional filters for families that want them.

The Justice Department, acting on behalf of the Federal Communications Commission and the U.S. Institute of Museum and Library Sciences, formally notified the Supreme Court on June 20 that it would appeal the ruling. A provision in the law required challenges to be heard by a three-judge panel, and appeals to be heard directly by the Supreme Court.

### FIRST AMENDMENT

## Court approves release of blacked out phone records

TALLAHASSEE – Under fierce pressure from freedom of information advocates and the press, State House Speaker Tom Feeney released the records of cell phone calls to and from his top staffers. However, the telephone numbers that were dialed were blacked out from the records to protect the privacy of those individuals called, according to Feeney’s attorney, Barry Richard.

Responding to arguments by the *Orlando Sentinel*, the *Tampa Tribune* and *The Palm Beach Post* that the public

had the right to see the complete records of the cell phone calls. Leon Circuit Judge Ralph Smith said that the release of the redacted records is enough to satisfy Florida’s public records law. Gregg Thomas, an attorney for the *Tampa Tribune*, says an appeal is likely.

Feeney had insisted that he was not required to turn over the records, since the phones were paid for by the state Republican Party, and not his office. As released, the records indicate that Bridgette Gregory, who left Feeney’s

office staff in April to work on his congressional campaign, placed 150 personal or political calls on a state-purchased cell phone before she left the office. However, a Feeney spokeswoman says Gregory purchased the phone herself. The Republican Party pays the phone bills.

Democratic Party Chairman Bob Poe filed a complaint with the Federal Election Commission in April, alleging that Feeney’s legislative office staff did campaign work, in violation of federal election law. (6/1/02)

## Court hears Alligator appeal

DAYTONA BEACH – Lawyers for *The Independent Florida Alligator*, a student-run newspaper that covers the University of Florida, argued before the Florida 5th District Court of Appeal in an attempt to overturn the Earnhardt Law, which removed all Florida autopsy

photos from the public record. Arguing that the law is unconstitutional because it limits access to records created before the law was passed, the *Alligator* lawyers asked the three-judge panel to reverse the ruling of Circuit Judge Joseph Will, who sealed the Earnhardt autopsy photos before the state legislature enacted the current law.

Prior to the enacting of the law in March 2001, autopsy photos were public records in Florida. “The right vests when the record is created,” said Tom Julin, an attorney for *The Alligator*. (5/23/02)

### FIRST AMENDMENT

## ACCESS MEETINGS CONTINUED

### Handy, trustees won’t meet privately

ORLANDO – Phil Handy, the chairman of the Florida Board of Education, says he will not call more closed meetings of the chairmen of the university trustees, after Florida newspapers obtained records of the meetings. Handy, who came under fire from freedom of information advocates for the closed meetings, maintains that the group is not covered by the Sunshine Law, since it has no power to set public policy. No judge has ruled on whether or not the group is governed by the state’s Open Meetings Law.

“I’m sorry I put us through it, because I don’t think the benefits of holding meetings outside the sunshine were worth costs,” Handy said.

According to an agenda of the January meeting, which was released when the

*Orlando Sentinel*, the *South Florida Sun-Sentinel*, *The Tampa Tribune* and *The Gainesville Sun* requested records of the closed meeting, the trustee chairmen and Handy discussed ways to help Gov. Jeb Bush’s bid for reelection, as well as strategies to fight U.S. Sen. Bob Graham’s constitutional amendment drive to restore the Board of Regents.

Handy said the reference to Bush on the agenda was a clerical mistake, and insists that the governor’s reelection was not discussed at the meeting. However, he said the meeting did include a discussion of Graham’s attempt to undo the restructuring of the education system undertaken by Governor Bush. (6/5/02)

## Snooping didn’t pay in Ybor City

TAMPA – A one-year trial with computerized cameras that scan faces in crowds and match them with mug shots of wanted criminals did not yield a single arrest in Ybor City, according to Maj. K.C. Newcomb, who is in charge of Special Operations for the Tampa police. “We have had one software problem after another,” said Newcomb. “We’re still using it, but we haven’t had any hits.” Newcomb said that the biggest problem with the system was getting up-to-date information and mug shots to keep the face-scanning software database current.

Police officials say that the problem is not with the cameras, lenses or the quality of the images, but with the sheer size of the database being used. “There are 24,000 active felony warrants in Hillsborough county alone,” said Newcomb.

In spite of the apparent failure of the system, installed for a free one-year trial by Visionics Corp., police officials still plan to recommend the use of the system to the city council. Even without the face-scanning software, they say, they can still use the cameras for crowd surveillance. (4/24/02)

### DECISIONS ON FILE

Copies of case opinions, Florida Attorney General opinions, or legislation reported in any issue as “on file” may be obtained upon request from the Brechner Center for Freedom of Information, College of Journalism and Communications, 3208 Weimer Hall, University of Florida, Gainesville, FL 32611-8400.

### PRIVACY

# THE BRECHNER CENTER

## ANNUAL FREEDOM OF INFORMATION REPORT

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2001 -- 2002

### Legislature approves 15 new access exemptions

The Florida Legislature passed 15 new public records exemptions during the regular 2002 legislative session and in special sessions in December and May.

Many of the exemptions passed in 2001-2002 were described by the lawmakers as addressing either security or identity theft concerns.

During the main legislative session, the Legislature passed a blanket public records exemption for all social security numbers collected by state agencies. It allows commercial entities to access the social security numbers if the company uses the numbers in the course of normal business and makes a written request.

After Oct. 1, 2002, court records must maintain social security numbers on a separate sheet, which will not be filed or recorded. Social security numbers appearing on records on the Internet will be removed at the request of the individual. The law also prohibits government agencies from collecting social security numbers unless the agency is authorized by law to collect them.

The eight other public records exemptions that passed during the regular legislative session included:

- An exemption for social security numbers and financial account numbers contained in Department of Banking and Finance.

- An exemption for building plans, drawings and blueprints of public buildings, arenas, stadiums and water treatment facilities.

- An exemption for personally identifying information about participants in the Public Employee Optional Retirement Program.

- An expanded exemption to include the identity of parents who leave their newborn infants at emergency medical services stations.

- An exemption for certain business information received under state and local tax refund programs. The information is exempt for the duration of the tax refund agreement or 10 years, whichever is earlier.

- An exemption for workpapers held by Florida's Department of Insurance as part of performance examinations of insurers.

- An exemption for information gathered by a taxing authority in connection with an audit of public service taxes collected by telecommunications service providers.

- An exemption for bank account numbers, debit, charge and credit card numbers, and other personal financial and health information collected by the Department of Insurance.

Four exemptions passed during the Special Session C in December including: public records and open meetings exemptions for discussions of security system plans and hospital emergency response plans; a public records exemption for police requests for public records during active criminal or intelligence-gathering investigations; and a public records exemption for information about the amount and type of Florida's pharmaceutical stockpiles.

In Special Session E, two exemptions passed. One creates an exemption for personally identifying information of participants in the Florida Alzheimer's Center and Research Institute as well patient medical records, trade secret information, donor identities and any information that is otherwise confidential. The other requires military discharge records to be removed from the Internet.

### Amendment would require two-thirds vote

A proposed constitutional amendment would raise to two-thirds the number of votes required for the Florida Legislature to pass a public records or open meetings exemption.

During the 2002 legislative session, Florida lawmakers passed the bill that will place the proposed constitutional

#### LEGISLATURE

amendment on the ballot during the next general election. Currently, only a simple majority vote is required to create an exemption.

If passed, however, the amendment is unlikely to slow the number of exemptions passed annually by the Legislature. During the last four legislative sessions, exemptions were passed by such a high majority that only one would have failed to have sufficient votes under a two-thirds rule.

### Senate changes rules to allow secrecy

During a special session in October, the Florida Senate approved changes to its rules that allow committees to meet in secret to discuss security and terrorism issues. A committee-approved plan would have kept some votes secret, but a last minute compromise makes public "records, research, information and remarks" after 30 days. Votes, bills and amendments will also be open.

The Senate president, however, can keep the information sealed past 30 days. "Hopefully, we never have to invoke it, but should it be a necessity I think we'd be glad to have that ability," said Senate President John McKay, R-Bradenton.

# Attorney General tackles Internet issues

Using an online bulletin board to exchange opinions between members of a water management district board is a violation of the state's Open Meetings Law if the bulletin board does not allow for public participation, according to Florida Attorney General Bob Butterworth. However, sending factual information via e-mails to other city council members does not necessarily constitute a violation of the state's Open Meetings Law.

Integrating the Internet into existing state Open Meetings and Public Records laws was the subject of several official access opinions issued by Butterworth during 2001 and 2002. These technology and access opinions included:

**E-mail communication between city council members** (AGO01-20)– E-mail messages containing factual information that are sent from one city council member to another are public records and must be retained for public inspection and copying. As long as the e-mail conveys factual information and does not result in an exchange of comments or responses, the e-mail does not constitute a meeting under the state's Open Meetings Law.

**E-mailing position statements** (AGO 01-21)– The attorney general's office discouraged the council members of the City of Port Orange from e-mailing position papers to other council members. However, as long as the council members do not discuss or debate the statements among themselves, it is not an automatic violation of the Open Meetings Law. But if one commissioner's statement is a response to another's statement, then it could violate the law.

**Conducting discussions and workshops on the Internet** (AGO01-66)– Members of an airport authority can conduct informal discussions and workshops over the Internet as long as the authority provides proper notice and offers interactive access to the public. The authority must provide not only online access to the meeting, but also access to computer terminals with Internet connections made available to people without computers or Internet connections. If the airport authority intends to take official action, a quorum of members must be physically present in

## Other notable access-related opinions

■ **Autopsy photographs** (AGO01-27)– Medical examiners may show autopsy photographs to public agencies as part of professional training sessions. Autopsy photographs cannot be shown to private entities without a court order. When showing photographs, the medical examiner must not disclose the name of the deceased and must attempt to disguise the recognizable features of the deceased. Autopsy photographs do not include crime scene photographs.

Anyone petitioning the court for access to an autopsy photograph is responsible for contacting the next of kin. A court order is not needed to use autopsy photographs in criminal or administrative hearings but is needed in civil procedures.

■ **Security plans** (AGO01-74)– Security plans and security needs assessments on file with public agencies are exempt from public records law. Subpoenas issued by criminal justice agencies to other government agencies as part of ongoing investigations are exempt. Law enforcement agencies gathering information from other government agencies do not have to respond to public records requests that might reveal the existence of an ongoing investigation or intelligence operation.

■ **Foster home records** (AGO01-54)– Licensing records and department assessment records are open to public scrutiny even if they include references to abuse, abandonment or neglect. The identity of any victims must be redacted before reports are released.

■ **Automobile accident reports** (AGO 01-59)– The owner of a vehicle involved in a crash can receive a copy of the report immediately.

### Schools:

■ **Charter schools** (AGO01-23)– Not-for-profit corporations granted charter school status are governed by the state Open Meetings and Public Records laws even if the school has not yet opened.

■ **School advisory councils** (AGO01-84)– School advisory council members who knowingly violate the Sunshine Laws can face criminal penalties.

■ **School police officer reports** (AGO 01-64)– A felony complaint/arrest affidavit created by a Miami-Dade County school police officer about a juvenile student is a public record unless the report contains active criminal investigative or intelligence information. Active information must be deleted and the remainder of the report released to the public.

■ **School readiness coalitions** (AGO 01-86)– School readiness coalitions are subject to the state Public Records Law.

■ **School board records** (AGO02-37)– The Pasco County School Board cannot require that all production and copying of its public records only go through a private company.

### Voting:

■ **Absentee ballots** (AGO01-07 & AGO01-16)– Exemptions for voter registration records do not apply to and do not exempt voter signatures, witness signatures or voter information located on the back of absentee ballots.

■ **Segregating ballots** (AGO01-37)– The Supervisor of Elections must use the county's optical scanning equipment to segregate overvote and undervote ballots even if the ballots have been segregated manually.

the meeting room.

■ **Online bulletin board meeting** (AGO 02-32)– The Peace River Basin Board's bulletin board was a violation of the state's Open Meetings Law because the bulletin board was up for an extended period of time – 22 days – and because it did not allow for direct public participation. The basin board did publish advance

notice of the bulletin board and the discussion topics and provided public access terminals. The discussion was also archived and treated as a public record. Similar bulletin board meetings might not be violations if the online discussions occur at a specified, limited time and the public is allowed to directly participate in the meeting.

# Escambia County commissioners charged

Four Escambia County commissioners face multiple misdemeanor counts of violating Florida's Open Meetings Law as part of wide-ranging charges brought against the commissioners regarding questionable land purchases.

Meanwhile, former Escambia County School Board member Vanette Webb, the first public official to serve jail time for violating the Public Records Law, will return to court for a retrial in her case.

Gov. Jeb Bush suspended Escambia's Mike Bass, W.D. Childers, Willie J. Junior and Terry Smith after they were arrested for bribery, racketeering, theft and sunshine violations. Real estate agent Joe Elliot and his wife, Georgeann, were also arrested.

Elliot reportedly made a gross profit of \$700,000 by selling two properties to the county. All four

## ACCESS CASES

commissioners were charged with multiple misdemeanor counts of violations of the state's open meetings law. Each misdemeanor count is punishable by a maximum of 60 days in jail and a \$500 fine.

Webb was convicted in 1999 of violating the Public Records Law for withholding public records following a request from parent Susan Watson. Escambia County Judge Patricia Kinsey sentenced Webb to 11 months and 15 days in jail but later suspended all but 30

days of the sentence.

Webb served seven days of the sentence. After Kinsey recused herself from the case, County Judge William White overturned Webb's conviction. The 1st District Court of Appeal overruled White, reinstating the conviction. The Florida Supreme Court refused to hear the case.

Webb's case is again before Judge White, who has granted Webb a new trial. The prosecution asked the judge to remove himself from the case, saying White has become an advocate for Webb. When he refused, the prosecution appealed the decision, and the start of the new trial was postponed until the appeals court rules again.

# Earnhardt autopsy photo law faces two challenges

Two separate lawsuits are challenging a public records exemption for autopsy photographs that passed during the 2001 legislative session.

The Earnhardt Act, named after late race car driver Dale Earnhardt, exempts public release of autopsy photographs without a court order. The law was retroactive, covering all autopsy photographs, including Dale Earnhardt's, taken before the law passed in March 2001.

Two lawsuits are challenging the statute, claiming it is overbroad and unconstitutional.

The first lawsuit, brought by *The Independent Florida Alligator*, was filed after the student-run newspaper attempted to get access to Earnhardt's autopsy photographs. Judge Joseph G. Will, 7th Judicial Circuit, ruled against the newspaper, saying that law was "valid and constitutional" and the retroactive provision was constitutional.

The *Alligator* appealed Will's ruling, and a three-judge panel of the 5th District Court of Appeal heard oral arguments in May.

A second lawsuit was filed in Broward County by the *Orlando Sentinel* and the *South Florida Sun-Sentinel*. The papers had requested autopsy photographs of never identified corpses and had been denied access under the statute.

Almost a dozen other media outlets and access organizations have joined the *Sentinel's* lawsuit including four Florida newspapers owned by *The New York*

## Other notable cases and lawsuits

■ A \$60 million sewer construction contract between Monroe County's Florida Keys Aqueduct Authority and Ogden Water Systems was voided when Judge Sandra Taylor, 16th Judicial Circuit, ruled that a technical evaluation panel involved in the selection of Ogden, now Covanta Energy, had violated the Open Meetings Law. Another circuit court judge awarded more than \$26,000 in legal fees to a local citizens group involved in the Sunshine lawsuit.

■ Miami-Dade prosecutors dropped a Sunshine Law case against Golden Beach town councilman Adalberto Paruas after he agreed to pay a \$500 fine. Paruas had a resident thrown out of a committee meeting, and said later that he didn't realize the meeting was open to the public.

■ Miami-Dade County Judge Henry

Leyte-Vidal acquitted two members of the Miami Code Enforcement Board of charges they violated the state's Open Meetings Law. Angel Gonzalez and Eladio Armesto-Garcia, a former state representative, were accused of talking about two codes enforcement cases outside a public meeting. After two days of testimony and reviewing tapes and transcripts, Leyte-Vidal ruled that prosecutors had not proven their case.

■ Judge L. Haldane Taylor, 4th Judicial Circuit, ruled that Nassau County officials did not violate the state's Open Meetings and Public Records laws when they decided to build a new courthouse in Yulee. However, Haldane said the commissioners did violate the Open Meetings Law by allowing Clerk of the Court J.M. "Chip" Oxley Jr. to attend closed meetings between April 1996 and December 2000.

*Times*, *The Tampa Tribune* and its television affiliate, WFLA-TV, the Society for Professional Journalists, the Reporters Committee for Freedom of the Press, the Student Press Law Center, the Florida Society of Newspaper Editors, and the First Amendment Foundation.

Judge Leroy Moe, 17th Judicial Circuit, heard testimony in the case in March. During the hearing, Moe asked state Solicitor General Tom Warner, "What can

you do to convince me to save this legislation.?" Moe seemed skeptical of the argument that saving families the pain of public autopsy photographs was more important than the state's open-records law. He interrupted Assistant Attorney General Scott Masel at one point, saying "I'm not too sure the Constitution protects hurt feelings. The Constitution of the state of Florida trumps those feelings."

## Grand jury wants change in philosophy

The Florida Constitution guarantees that documents made or received by any of the three branches of government are presumed open to public scrutiny unless the documents are specifically exempted by the State Legislature. However, citing privacy concerns on the Internet, a statewide grand jury investigating identity theft recommended not only more restricted access to certain public records but urged the state to change its underlying

philosophy regarding access. “[P]rivate information collected from citizens should be presumed confidential and non-disclosable unless there is a statutory ground for its release.”

### Statewide grand jury report

— The grand jury recommended that the presumption of openness be reversed. “That is, private information collected from citizens should be presumed confidential and non-disclosable unless there is a statutory ground for its release. We are not convinced that doing so would violate the spirit and intent of the First Amendment.”

The grand jury was especially concerned that official records being made available on the Internet by county clerks contained information such as social security numbers that could be used by Web-savvy thieves to commit identity theft. However, the grand jury offered no evidence that public records were being used to steal private information. It indicted 33 people on 419 counts related to identity theft, but the information used in the scams was stolen from driver’s license offices, private businesses and directly from the victims, not from public records.

In related legislative action, the Legislature passed bills that created an exemption for social security numbers, increased the penalties for using public records to commit crimes, set up a statewide task force to study public records issues, and ordered counties to withdraw certain documents from the Internet.

## Statewide panel to study public records issues

The Florida Legislature is funding a committee to study public records and privacy issues.

The committee is charged with examining the privacy and public access issues related to court records, especially electronic access to court records.

In particular, the committee will look at whether courts require participants to provide excessive and unnecessary information and whether types of information such as financial statements, psychological evaluations, and the names and addresses of children should be exempt from public disclosure.

The committee will make recommendations about what information should be accessible to whom and under what circumstances and suggest any needed changes in laws or policies.

Required to make a final report by Jan.

## Gag-order series wins Brechner FOI award

A series of stories documenting the *Arkansas Democrat-Gazette’s* five-month struggle with a juvenile court judge over a gag order and a subsequent contempt of court citation won the 2001 Joseph L. Brechner Center for Freedom of Information Award.

The \$3,000 cash award annually recognizes excellence in reporting about freedom of information, access to government-held information or the First Amendment

The newspaper’s battle began in May 2000 when a 12-year-old boy, walking toward his school in Prairie Grove, Ark., carrying a shotgun, exchanged gunfire with a police officer. Within days, juvenile court Judge Stacey Zimmerman issued a gag order that prevented the media from publishing the names or photographs of the boy, his family or the injured police officer even though the media had legally obtained and already published the boy’s identity.

The *Democrat-Gazette* continued to use the boy’s name and published photographs of him and his family taken

1, 2003, the committee will be made up of 22 members, nine of which will be non-voting members. The members will be appointed by the governor, the president of the state Senate, the speaker of the state House of Representatives, the chief justice of the Supreme Court, and the Florida Association of Circuit Court

Clerks and Comptrollers.

### LEGISLATURE

The Judicial Management Council of Florida already investigated some

issues related to privacy, court records and the Internet and recommended to the state Supreme Court that it impose a moratorium on electronic access to certain court records until a statewide policy is developed and implemented.

The Judicial Management Council also recommended the Supreme Court appoint a separate committee to investigate Internet records.

outside the courthouse. Zimmerman held the *Democrat-Gazette* in contempt and fined the paper \$100.

Joined by other members of the media, the *Democrat-Gazette* fought the gag order to the state Supreme Court, which ruled that the order was overly broad and said it was a “plain, manifest clear and gross abuse of discretion.”

Brechner award judges pointed to the quality of the project’s writing and research and its impact on the public’s right to information.

“With school gun violence an all-too-common threat to children, a more timely and important defense of the public’s right to know can scarcely be imagined,” said one of the judges. “The *Democrat-Gazette’s* commitment of time and resources necessary to prevent the erosion of vital protections is an example of public service journalism at its finest.” Griffin Smith Jr., executive editor of the *Democrat-Gazette*, accepted the award on behalf of the newspaper at an April ceremony in Gainesville, Fla.

# LEGISLATIVE REVIEW CONTINUED

TALLAHASSEE – The following exemptions to the state Public Records/Open Meetings laws were reviewed and re-enacted during the 2002 legislative session under the Open Government Sunset Review Act.

Copies of the legislation are available at the Florida Legislature's home page, Online Sunshine, at <http://www.leg.state.fl.us>. Chief sponsors of the bills are in parentheses next to the bill numbers.

**SB 250** (Senate Committee on Health, Aging and Long-Term Care)

**HB 277** (Brummer, R-Apopka)

Health practitioner profiles – Law exempts from disclosure any patient information contained in a profile of a health practitioner.

**SB 254** (Senate Committee on Health, Aging and Long-Term Care)

**HB 283** (Brummer, R-Apopka)

Ombudsman committees – Law exempts from disclosure patient records held by district managed care ombudsman committee. Removes statewide managed care ombudsman committees from exemption.

**SB 352** (Sanderson, R-Fort Lauderdale)

**HB 273** (Brummer, R-Apopka)

Ethics complaint records – Law exempts the records and proceedings of the Commission on Ethics or a county Commission on Ethics and Public Trust. Allows the records to be made public if a complaint is dismissed, the accused violator makes a written request, or the commission determines probable cause exists for a violation.

**SB 394** (Criminal Justice Committee)

**HB 285** (State Administration Committee and Brummer, R-Apopka)

Victim and witness information – Law exempts from disclosure information held by law enforcement agencies concerning the identities of crime victims and witnesses who have been certified for protective and relocation services, including information about family members.

**SB 396** (Senate Committee on Criminal Justice)

**HB 287** (Brummer, R-Apopka)

Violent crime council – Law allows the Florida Violent Crime and Drug Control Council to close portions of its meetings to discuss active criminal or intelligence investigations and to keep records secret until the investigations are no longer active.

**HB 275** (House Committee on State Administration)

Deepwater ports – Law exempts proposals or counterproposals exchanged between deepwater ports and non-governmental entities relating to the sale, use or lease of land or port facilities, and any financial records submitted by any non-governmental entity related to transactions.

**HB 281** (Committee on State Administration)

Risk-based capital information – Law exempts risk-based capital information held by

the Department of Insurance and on existing public meeting requirements for hearings conducted by the Department of Insurance involving risk-based capital information.

**HB 1675** (Committee on State Administration)

Bank account & charge card numbers – Law exempts bank account numbers and debit, charge, and credit card numbers held by a government agency. Exemption applies retroactively.

The following bills were introduced but were not passed during the legislative session. Summaries of the bills are available from Online Sunshine at url <http://www.leg.state.fl.us>.

**SB 84** – Nursing homes/internal risk management records and meetings

**SB 86 and HB 1445** – Learning gateway  
**SB 162 and HB 1981** – Proceeding/judicial qualifications commission

**SB 220** – Ethics Code violations

**SB 274 and HB 539** – Reorganization and records retention

**SB 340 and HB 241** – Images of victims

**SB 368 and HB 131** – Confidentiality of library records

**SB 378 and HB 445** – Customer information from utilities

**SB 392, SB 404 and HB 95** – Filtering on public libraries' computers

**SB 430 and HB 195** – Insurers' records

**SB 494** – Inspection and copying of public records

**SB 638** – Health care records

**SB 644 and HB 2013** – Worker's compensation records

**SB 646** – Procurement meetings

**SB 648** – Peer review panels

**SB 650 and HB 773** – Paternity registry

**SB 652** – Shell bill for public records

**SB 654 and HB 1951** – Procurement

**SB 656** – Shell bill for public records

**SB 658** – Higher education/health services support organizations

**SB 660 and HB 2019** – Investigations/higher education

**SB 980** – Military discharge forms

**SB 984** – Public safety/public records

**SB 986** – Public safety/public records

**SB 1030 and HB 323** – Crash reports

**SB 1152 and HB 1663** – Investigative incident reports

**SB 1154 and HB 1495** – Sealing

investigative incident reports

**SB 1440 and HB 1205** – Unsolicited reports

**SB 1260** – Shell bill bioterrorism threats  
**SB 1270 and SB 1280** – Shell bills public records

**SB 1466** – Court records and electronic access

**SB 1468** – Home addresses teachers

**SB 1488** – Photos victims of sexual offenses

**SB 1494 and HB 1509** – Pharmacists adverse incident reports

**SB 1558** – Shell bill for education

commission exemptions

**SB 1562** – Exemptions in higher education  
**SB 1648** – Social security numbers and court records

**SB 2258** – Home addresses and property  
**SB 2416** – Home addresses and public employees

**SB 2536** – Sale of personal information

**HB 107 and SB 1782** – Computer modeling in the Department of Insurance

**HB 147 and CS/SB 1996** – Citizen's Right to Honest Government Act

**HB 431** – Guardian ad litem

**HB 687 and SB 1534** – Personal information/paratransit services

**HB 731 and SB 970** – Aerial applicators

**HB 737** – Law enforcement cellular telephone numbers and billing records

**HB 739** – Law enforcement digital pager numbers and billing records

**HB 769 and SB 1762** – Student assessment data

**HB 875 and SB 1600** – Physician/adverse incident reports

**HB 927** – Dispute resolution/managed care

**HB 1055 and SB 1318** – Financial reports

**HB 1223 and SB 1690** – Women's health and safety act

**HB 1311, SB 1526, SB 2464** – Motor vehicle records

**HB 1313** – DCFS investigative records

**HB 1417 and SB 1934** – Birth defects

**HB 1505** – Video lottery games

**HB 1547 and SB 2036** – Food-borne illness

**HB 1639 and SB 2240** – Qualified Tax Refund Program records

**HB 1769 and SB 2370** – Unsolicited bids/transportation

**HB 1983** – Juvenile records

**HB 2003** – Alzheimer's institute records and meetings

## THE BRECHNER REPORT

Brechner Center for Freedom of Information  
3208 Weimer Hall, P.O. Box 118400  
College of Journalism and Communications  
University of Florida, Gainesville, FL 32611-8400  
<http://www.jou.ufl.edu/brechner/>  
e-mail: [brechnerreport@jou.ufl.edu](mailto:brechnerreport@jou.ufl.edu)

**Sandra F. Chance, J.D., Director/Executive Editor**  
**Colleen Connolly-Ahern, Editor**  
**S. Camille Broadway, Annual FOI Report Editor**  
**Alana Kolifrath, Production Coordinator**  
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# Joseph Brechner's words still ring true today

*Executive Editor's Note: This column, authored by the late Joseph L. Brr, appeared in the April 22, 1970, issue of the Orlando Sentinel. Mr. Brechner was president and*

## **The Back Page** By Joseph L. Brechner

*general manager of WFTV in Orlando from 1958-1970, a particularly tumultuous time in our history. He wrote and broadcast hundreds of editorials, as well as 608 columns for the newspaper. This article, written more than 30 years ago, seems particularly relevant as we celebrate the Fourth of July in the post-Sept. 11 age of government secrecy.*

I was shocked by the results of a poll on how Americans feel about individual liberties protected by our Bill of Rights. The report was on a CBS broadcast "60 Minutes" a week ago. More than half of the 1,136 Americans polled opposed at least half of these rights.

In recent years, I have felt that a majority of Americans would oppose many of our basic constitutional rights, if they could vote on them today.

Several years ago, a group of students conducted a similar experiment. They paraphrased the Bill of Rights and stood on street corners asking citizens to sign a petition in support of these rights.

The experiment was a success; the results were a failure. Students were called Communists, Socialists and crackpots. Many Americans shunned them as troublemakers.

This experiment and the CBS poll establish quite clearly that many Americans are totally ignorant about our basic responsibilities and rights under the constitution. Many people call themselves "strict constructionists," when actually they are disbelievers.



Joseph  
L. Brechner

It is surprising that a real "strict constructionist" of my type must constantly fight to retain what our ancestors fought for, at great risk, to give us our heritage today.

Those who object to protesters, to criticism of our government, to the right to report fully the news even when it is bad public relations for the U.S., would do well to read Irving Brant's *The Bill of Rights, Its Origin and Meaning* and *The Fourth President, a Life of James Madison*.

Here you learn of the brutalities of English law; the maladministration of justice the abject tyranny and disregard for individual rights. All this was familiar to our founding fathers as they wrote our Constitution and the Bill of Rights.

It was no wonder some of our ancestors boarded a ship illegally in Boston Harbor and maliciously tossed bags of tea into the sea. They were protesting taxation without representation and other grievances.

The CBS poll once again set me off about our national ignorance about our Constitution and the Bill of Rights. How easily we submit to demagoguery, distortion and deception.

For these reasons, I cherish the works of Mr. Brant on our fourth president and the study of the Bill of Rights. He set the record straight. He dedicated the late years of his life to explain, clarify, protect and preserve the great rights and liberties provided us by Mr. Madison and his colleagues.

We seem too ready to toss some of them away or to turn them back to "the government" without – heaven forbid! – even a protest. To many Americans, freedom is too bothersome and too much of a public nuisance when others use it and even abuse it to our inconvenience and discomfort.

We don't quite believe in liberty and justice for all – only for us and for our side.