



New England First Amendment Coalition

# The NEFAC Report

New England's monthly right-to-know dispatch

Prepared by the [New England First Amendment Coalition](#) in partnership with the First Amendment Center at Northeastern University

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The monthly *NEFAC Report* monitors print and online coverage of public access issues in the six-state region. Visit our revamped Web [website](#) for the NEFAC blog, media updates from around New England, guides to the states' right-to-know laws, legal contacts and more.

**Got something to say?** Let us have it. Contribute to the NEFAC blog and keep the right-to-know conversation going. Send your 300-word entry to blog monitor Laura Crimaldi at [Crimaldi@hotmail.com](mailto:Crimaldi@hotmail.com)

## Law cloaks punishments doled out to school bullies

School officials can't tell parents of a bullying victim what punishment a bully received, despite a revamped state law that strengthens protections against bullying and cyberbullying.

"For parents, it's frustration because they want to be reassured that the district, the principal or whomever actually provided what they believed to be a reasonable punishment for bullying," Derry Superintendent Mary Ellen Hannon said in an interview last week.

School districts across the state are working to draft policies by Jan. 1 to comply with the law that went into effect in July. The law calls for school officials to report back in writing to the parents of the bully and parents of the victim within 10 days of completing their investigation. The written communication addresses the school's response, but only to the extent allowed by existing state and federal law. [Read more](#)

- Michael Cousineau, *New Hampshire Sunday News*  
11/14/10

## VT won't release letter from Burlington Telecom lender

Public Service Commissioner David O'Brien has received an answer to his letter to CitiCapital asking what the lender would do if Burlington Telecom failed to make its most recent payment on a \$33.5 million loan, but O'Brien refused to release the letter Friday, citing ongoing legal action.

Burlington Telecom failed to make a \$480,000 payment to CitiCapital due Oct. 31, and has not made payments this year on the \$33.5 million loan it took from the New York-based lender in August 2007. BT has missed a total of about \$1.5 million in payments this year, said Jonathan Leopold, Burlington's chief administrative officer.

The financial advisory firm Dorman and Fawcett has been negotiating in secret with CitiCapital on the terms of repayment. In an Oct. 26 letter to John Gerspach, Citigroup Inc.'s chief financial officer, the Department of Public Service said that it has "grown concerned about what the outcome of these negotiations might be and what effect they may have on BT customers." [Read more](#)

- Dan D'Ambrosio, *The Burlington (Vt.) Free Press*  
11/13/10

## Data release mistake was the state's, not muckraker's

Michael Morisy, cofounder of MuckRock, a pro-open-government website, followed all the rules when he posted information about how much in food stamps has been spent at Massachusetts businesses over the last five years under the Agriculture Department's federal Supplemental Nutrition Assistance Program. He submitted a Freedom of Information Act request, and the Department of Transitional Assistance fulfilled it a month later, providing him with data that he then published, along with analysis of what it meant, on his website.

Now, though, the state is telling Morisy he could be in legal jeopardy, as the publication of this information violates federal law, and that he has to take it down. Someone messed up here, but it wasn't Morisy. It would be one thing if the data in question were particularly sensitive - containing the names of food stamp recipients, for example. But they don't, and therefore there's no compelling reason for the state to tell Morisy to pull down information he obtained through legal, proper channels, particularly given that the information has been online for awhile and already downloaded by MuckRock readers. [Read commentary](#)

*- The Boston Globe*

11/12/10

## Editorial: Goal to price the public out of access to info

QUINCY, Mass. - West Bridgewater officials have gone to extraordinary lengths in the last few years to hide public information from local residents.

That cult of secrecy reached its apex this week when the town said it would finally release the transcripts of closed-door meetings involving former police Lt. Raymund Rogers. But the 475-page document would be turned over only if The Enterprise wrote a check to the town for \$2,093.36.

We would never use the term extortion to describe this behavior, but town officials are using a tactic that other communities have used to hide public documents from the questioning eyes of the public - make the cost so high that it becomes prohibitive.

This practice has already been found to be improper and few towns have the gall to try to keep secrets by putting the price of openness beyond the means of most town residents. Communities may charge a reasonable cost for providing public documents - which is not being done in this case.

Town Administrator Elizabeth Faricy admitted as much. She said the copying fees for the transcripts are \$173.36, but \$1,920 is being tacked on for "legal fees." [Read more](#)

*- The Enterprise, Brockton, Mass.*

11/12/10

## Town will release redacted records - for a \$2,000 fee

WEST BRIDGEWATER, Mass. - Town officials, after consulting with the state public-records division, have agreed to release partially blacked-out transcripts from closed-door meetings about alleged misconduct by now-retired police Lt. Raymund Rogers.

But the town is requesting The Enterprise fork over a fee of \$2,093.36 before it begins blacking out information that it believes to be protected from release to the public. The town announced it will release the redacted transcripts in a letter from Town Administrator Elizabeth D. Faricy, dated Nov. 5 and received by The Enterprise on Wednesday.

The town gave the \$2,093 fee as an estimate of the cost of redacting protected information and copying pages in the 475-page document.

"The Board (of Selectmen) requests that this amount be paid in full in the form of a check made out to the Town of West Bridgewater prior to commencing the task of redacting," Faricy wrote.

The Enterprise has been trying to obtain full records on the Rogers case for close to two years.

Chazy Dowaliby, editor of The Enterprise, called the town's fee "outrageous." [Read more](#)

*- Maria Papadopoulos, The Enterprise*

11/11/10

## CT development agency flouting disclosure law

The Connecticut Development Authority is a quasi-public state agency that places bets - with loans, loan guarantees and tax-increment financing - on private companies generally considered too risky by banks. There's a place for the state taking this kind of risk. Economic growth and jobs are the payoff.

Companies benefiting from the CDA largesse must, however, provide the state with certain information: their revenue and their employees' wages and benefits. The CDA, in turn, is statutorily required to share that information with the public. That makes sense. The public has a right to know how effective its investment in a company has been.

The problem is - as exposed in a recent story by The Courant's Jon Lender - the CDA isn't complying with the disclosure law, or at least isn't complying in any meaningful way. The agency's officials say the information is "sensitive," and its release could harm the loan recipients in the marketplace. [Read editorial](#)

*- Hartford (Conn.) Courant*

11/12/10

## Grossman says MA checkbook, contracts to be online

BOSTON - He's helped elect senators and presidents and headed one of the nation's top political parties. Now Steve Grossman is ready to step into his own public office in Massachusetts.

The former head of the Democratic National Committee said his first major initiative after being sworn in as state treasurer in January will be to post the state's checkbook online - and he's giving himself six months to get the user-friendly website up and running.

"Why shouldn't every citizen have at least the right to know how every dime is spent?" Grossman said in an interview with the Associated Press. "The less that is perceived to happen behind closed doors and the more that's out in the public space, the more confidence that people will have that it's all on the up and up."

The website won't just list all the state's expenditures. Grossman said he also wants to put online all the contracts that the treasurer's office issues to ensure an open and fair public bidding process. [Read more](#)

*- Steve LeBlanc, The Associated Press*

11/12/10

## NH police chief fired over Facebook messages to teen

WARREN, N.H. - Months after suspending the elected police chief for sending a series of messages to a teenage girl, selectmen on Wednesday night voted unanimously to terminate him following a closed-door meeting.

Warren Davis has been elected annually as the town's police chief for the past 12 years. The three-member board of selectmen suspended him in early July, after a series of Facebook messages emerged that he sent to a teenage girl.

Selectmen Chairman Michael Clark said the meeting with Davis lasted about an hour, but would not say anything more about it because it is a personnel issue.

Asked whether the board of selectmen has the authority to terminate an elected officer, Clark said, "That's always the big question," but said the board acted on the advice of its attorney.

Davis could not be reached for comment Thursday night, but at least one resident said he questions the action by the board.

"I don't think they have the authority to do that," said Dan Clancey. [Read more](#)

*- Lorna Colquhoun, New Hampshire Union Leader*

11/11/10

## Court tells town to release records to VtDigger.com

Last May Hartford police responded to a 911 call, reporting a burglary in progress at a Wilder residence. When police arrived at the scene, they found 34 year-old Wayne Burwell inside the house. Burwell, who is African-American, was reportedly handcuffed and pepper-sprayed. It turned out that Burwell actually owned and lived in the house.

In the wake of the incident, the online news site VtDigger.org requested police records relating to the case, citing Vermont's public records law. When the town refused to release the information, the matter ended up in court. [Read more, hear interview](#)

- Jane Lindholm, Vermont Public Radio

11/10/10

## NH city wants return of money it believes agency misspent

PORTSMOUTH, N.H. - After their request was denied Friday, city officials are ramping up efforts to seek the return of at least \$282,436 collected by the nonprofit Local Government Center for health insurance, but used for other purposes.

"We don't believe Portsmouth is owed \$282,000," LGC Executive Director Maura Carroll told the Herald on Friday.

City Manager John Bohenko on Monday called Carroll's denial "an administrative response" and said Portsmouth now wants to be heard by the full LGC board. In a letter dated Nov. 8, City Attorney Robert Sullivan asks for a meeting with the LGC board "for discussion, debate and vote" on the matter.

"Your denial of the city's request at an administrative level requires that the city elevate the level of that request," wrote Sullivan. "Accordingly, the city feels that an administrative response denying our request for reimbursement of the diverted health insurance premiums is insufficient." [Read more](#)

- Elizabeth Dinan, Portsmouth (N.H.) Herald

11/9/10

## Names of "Girls Gone Wild" should be kept out of lawsuit

Four women, now in their 20s, are currently suing Joe Francis, producer of "Girls Gone Wild" for exploitation. The lawsuit itself isn't the main issue, as Francis has already pled guilty to criminal charges for coercing one of the plaintiffs and failing to keep proper records for another. All of these women were minors, one as young as 13, at the time. For these criminal charges, the women were allowed to remain anonymous.

The main issue is that a federal judge in Florida rejected their request to remain anonymous in this new civil lawsuit. They are now appealing this decision, asking the court to reject the original ruling and allow the women to file their suit anonymously.

Florida Freedom Newspapers Inc. and the Southern Newspaper Publishers Association, two groups whose attorneys say they have the right to know names of plaintiffs, claim that journalists should have the right to know the names of plaintiffs and that they should have the discretion to publish plaintiffs' names at will. They've entered into the fray by claiming that the press should be allowed to decide whether names would be newsworthy.

But this is a dubious claim. In this case, publishing the plaintiffs' names serves only to titillate, not to educate. [Read editorial](#)

- The Daily Campus, University of Connecticut

11/7/10

## Time for VT gov-elect to make good on openness pledge

The race is over, the governing must begin.

As governor, Peter Shumlin must confront a continuing state revenue shortfall, as well as deliver on the promises and plans that helped him win the election. Shumlin is well acquainted with these challenges having spent the last four years as president pro tempore of the Senate. But governing will require different skills than those he deployed well as a legislator or on the campaign trail.

Shumlin can make a good start by reaffirming his pledge to make open government a hallmark of his

tenure. This reaffirmation must go beyond words and be reflected from day one in the way the governor-elect begins to form his administration.

Open government is hardly the only issue before the state. Everyone in state government, from the governor and members of the Legislature to front-line civil servants can expect another rough year as Montpelier attempts to reconcile the budget in the face of another \$100 million-plus in savings and cuts to balance the budget. [Read editorial](#)

- *The Burlington Free Press*  
11/1/10

## CT high court ruling a blow to public access

The state Supreme Court last week barred the release of any names of judges, court clerks or attorneys involved in keeping secret the identity of sex offenders, reversing a Freedom of Information Commission decision that such information should be available. The ruling is self-serving and against the public interest.

The Journal-Inquirer of Manchester asked for the information from the Department of Public Safety in 2007. The newspaper was reporting a story on the sex offender registry and wanted to see if there were any patterns in which lawyers, courts or certain judges were involved in multiple cases of keeping sex offenders' names secret.

Megan's Law, which established the sex offender registry in Connecticut, allows courts to make the identities of sex offenders known to police but kept off the registry if making them public would also reveal the identities of victims. This is done in less than 1 percent of cases. The FOI Commission ruled that the location of courts and the names of attorneys, clerks and judges is not "registration information" and should therefore be public, which would seem to be only common sense. [Read editorial](#)

- *Hartford Courant*  
11/1/10

## Some reminders needed of the public's right to know

I wish Jack Miller well in his recovery from heart surgery, but I also wish the Central Connecticut State University president had been more forthcoming about why he suddenly had to leave his job for three to six weeks.

He and the university refused to say, beyond "major surgery," what ailed the president. They wouldn't even disclose what hospital he was in.

What that leads to is rampant speculation, unease and a big question about the commitment to seeking truth that is a basic purpose of an institution of higher learning. CCSU is a public university. Miller is a public official. What if the governor decided to disappear for three to six weeks? Or the mayor? Or any other high public servant paid by the people?

Get well, Jack, but rethink the secrecy.

The New Britain Police Department also needs to give some more thought to its policies on informing the public when bad things happen to people. On Sept. 21 three men were injured, one critically, in a one-car automobile accident. The citizens of New Britain still don't know who they are because the police refuse to release their names.

Several people have been shot in the city in the past two months and the police refuse to say who any of them are. [Read commentary](#)

- *James H. Smith, The Bristol (Conn.) Press*  
10/30/10

## Order releasing video exposes VT's hypocrisy on openness

The court ruling ordering the release of state police video of a DUI arrest exposes the Vermont Public Safety Department's unforgivable hypocrisy when it comes to public records.

The state police have been fighting to keep secret a patrol car video of state Auditor Thomas Salmon's 2009

drunken driving arrest, citing the "criminal investigation" exemption to the state's public record laws -- a paragraph that gives the state broad discretion about what the public will see.

At the same time, the Public Safety Department website listed DUI videos as among the public records available for purchase at \$45 a pop. That Public Safety Commissioner Thomas Tremblay refused to discuss the sale of the videos when questioned by a Free Press reporter only raises questions about what his department was trying to accomplish by withholding the Salmon video. [Read editorial](#)

- *The Burlington Free Press*

10/29/10

## Lawyer asks probe of deleted cruiser crash video

MILFORD, Conn. - An attorney for the estate of one of two Orange teens killed last year when their car collided with a police cruiser is seeking a criminal investigation into the Police Department's deletion of more than 2,000 in-car camera police calls.

Last week, lawyer R. Bartley Halloran and members of the Police Department, including Police Chief Keith Mello, met in Hartford before the state Freedom of Information Commission. Halloran had previously requested, under the FOI Act, all in-car camera videos predating the June 13, 2009, crash.

Halloran represents the estate of David Servin, 19, who was killed in the crash involving former Officer Jason Anderson, whose cruiser collided with the teens' car at 94 mph.

Halloran's request spanned from June 12, 2007, through the night of the accident, which yielded 2,607 police calls, but 2,463 incidents were "inadvertently" destroyed due to "miscommunication," Mello testified last week. [Story, video](#)

- *Brian McCready, New Haven (Conn.) Register*

10/26/10

## Proposed curb on CT inmate lawsuits goes too far

Exploiting the unpopularity of convicts, Connecticut's Correction Department proposes to amend the state freedom-of-information law not only to prevent convicts from obtaining information about the department but also to prevent the public from obtaining it.

With time on their hands or aggravation or intimidation in their hearts, prisoners can make themselves obnoxious by filing complaints against the Correction Department with the Freedom of Information Commission. But as prisons necessarily are inaccessible to the public, prisoners and guards are in the best position to identify wrongdoing and inefficiency even as prisoners are virtually unable to defend themselves against mistreatment. Terminating the ability of prisoners to get information about the prison system would go too far and indeed be against the public interest in sustaining some mechanism by which the grittiest information about prisons can reach the public. [Read more](#)

-*Chris Powell, The Middletown (Conn.) Press*

10/26/10

## Feds investigating records missing from St. Johnsbury, Vt.

Tucked away in a vault in the St. Johnsbury town office is a sealed box. It contains files from the Jay-Lyn Revolving Loan Fund. The program uses federal funds. It was started in the town in 1995 to promote area development.

"We were in the process of organizing the records and it started to become obvious that there were some records that were not there," St. Johnsbury Town Manager Ralph Nelson said.

The box was removed from the town office by Joel Schwartz, St. Jay's former economic development officer and the Jay-Lyn Fund's administrator. He was laid off in July due to budget cuts.

"The records were public records, they were about a public fund and therefore to the best of my knowledge, it's illegal," Nelson said. [Read more](#)

- Adam Sullivan, WCAX-TV, Burlington, Vt.

10/21/10

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**Comments welcome.**

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