
THE BRECHNER REPORT

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Florida counties will offer online court records

TALLAHASSEE – The Florida Courts Technology Commission told 58 Florida counties they had to post court records online, according to The Florida Times-Union.

The Florida Supreme Court told county clerks in 2004 they could not post records online because of security concerns, the paper reported. In 2007, the Court allowed Manatee County to begin a pilot program to put court records online, which has been operating since.

The Florida Supreme Court lifted the ban on posting online records for all counties about a year ago. Since that order, the Commission has been working to approve all counties for posting records online, the paper reported.

The Commission mandated in its most recent order that clerks begin posting records online by July 1, according to the paper. The records will include lawsuits, arrests, motions, judge's orders and more.

"It's been a long time coming," said

Carol LoCicero, an attorney for about 60 media organizations asking the Florida Supreme Court for online records access. "We're glad to see anything that increases transparency in the judicial system," she said. "The easier it is to get access to government records, the better. If we can make access easier, then we have an obligation to do that. For some people it's about whether they'll be able to access it at all. If you're disabled, hopping down to the courthouse isn't realistic."

Source: The Florida Times-Union

COURTS

Town may have violated law

CARYVILLE – The Caryville Town Council may have violated Florida's Sunshine Law when it considered a contract to excavate town land, according to the Washington County News.

"The Sunshine Law has been broken," said council member Nora Curry.

Council Chairman Henry Chambers requested a quote from a timber company to remove trees from town land and discussed that quote with the council, according to the paper. The council did not vote on the

matter or make any motions to put the project up for bid.

Chambers then signed a contract with a timber company following that meeting without the council's vote, the paper reported. The Town Council then met to amend the project once they discovered Chambers had proceeded with the project.

Florida's Sunshine Law requires governing bodies to discuss public business and vote at properly noticed public meetings.

Source: Washington County News

ACCESS MEETINGS

Police withhold video record

BOYNTON BEACH – The Boynton Beach Police Department refused to turn over video footage from a police chase to the media, according to The Palm Beach Post.

The police department called a news conference and played the video instead of giving a copy of the video to the press, the paper reported. A Boynton police spokeswoman said the department gave their only copy of the video to the FBI.

Florida's Public Records Law requires state agencies to turn over records made in the course of official business.

After Palm Beach Post lawyer Martin Reeder said the city's refusal to produce the record may amount to a violation of

the law, the city agreed to comply with the request, the paper reported. The media received a copy of the video from the Palm Beach County

State Attorney's Office.

Source: The Palm Beach Post

ACCESS RECORDS

No charges filed in investigation

MAITLAND – The Orange-Osceola State Attorney's Office will not file charges against officials stemming from a 2012 complaint of a potential Sunshine Law violation, according to the Orlando Sentinel.

The complaint to the State Attorney's Office claimed three Maitland officials violated Florida's Sunshine Law by discussing privately whether the Maitland Arts Center was a public or private entity, the paper reported.

State Attorney Jeff Ashton said the officials did not violate the law when the city attorney discussed the impact of the Center's status with individual

city council members, according to the paper. The matter was never discussed in a public meeting, the paper reported.

Ashton said the original question regarding whether the Maitland Arts Center fell under the Sunshine Law was not considered as part of the investigation, according to the paper.

Source: Orlando Sentinel

ACCESS MEETINGS

Appellate court dismisses blind trust case

TALLAHASSEE – An appellate court dismissed a constitutional challenge to Florida’s blind trust law, according to the Tampa Bay Times.

The 1st District Court of Appeal rejected the challenge, filed by Jim Apthorp, former Gov. Reubin Askew’s chief of staff. Apthorp claimed that the blind trust law violated a constitutional requirement that public officials disclose their financial interests, the paper reported.

Gov. Rick Scott placed his money in blind trusts during his first term as governor, the paper reported. Scott then ended the trust as he listed his assets prior to re-election and began a new trust after the disclosure.

The court ruled that the case was “speculative” and that Apthorp did not allege that any public official had used the blind trusts in recent financial disclosures, according to the opinion.

Despite the important constitutional

implications of the blind trust law, the court ruled that it did not have authority to decide the case, the opinion stated.

“However, notwithstanding the substantial interest in this case from the bench and bar, we are constrained to leave for another day the resolution of this constitutional question because this case lacks a justiciable controversy,” the opinion stated.

Source: Tampa Bay Times, Apthorp v. Detzner, No. 1D14-3592

Bush email release contains personal information

TALLAHASSEE – Former Gov. Jeb Bush released hundreds of thousands of emails from his terms as governor, but some contained personal information about Floridians, according to The Associated Press.

Bush released approximately 300,000 emails on his website jebemails.com, the AP reported. In a small percentage of those emails, the names, birthdates and social security numbers of more than 12,000 Floridians were not redacted.

Social Security numbers are confidential under Florida law with a few exceptions, the AP reported. The majority of Social Security numbers accidentally

released in Bush’s emails were part of a list tracking the number of people on a state family service waiting list.

Data security firm Identity Finder told The Associated Press that almost all of the private information accidentally released in the emails had been redacted within two days of the release.

Before Bush released the emails in early February, other groups had obtained the emails and released them on their own websites, according to the AP. One group, American Bridge, told the AP it was in the process of removing the personal data as well.

Source: The Associated Press

Judge dismisses Dept. of Corrections whistleblower suit

MIAMI – A federal judge dismissed a lawsuit filed by several Florida Department of Corrections employees, finding they did not qualify as whistleblowers, according to The Miami Herald.

Senior U.S. District Judge William Stafford ruled five prison inspectors and a probation officer who filed the federal whistleblower lawsuit did not have any First Amendment rights if they complain or are retaliated against within the scope of their employment, the paper reported.

The DOC employees claimed

their bosses threatened them after the employees tried to expose corruption and cover-ups within the department, according to the paper. The employees filed an internal affairs complaint and were ultimately denied whistleblower protection by the DOC’s Chief Inspector General.

The focus of the employees’ claim concerned the death of an inmate they believed had been covered up. The Florida Department of Law Enforcement and the U.S.

Department of Justice are investigating that death, the paper reported.

Source: The Miami Herald

Body camera bill raises concerns

TALLAHASSEE – A proposed bill that would have required police officers in Florida to wear body cameras is being reversed as groups express privacy concerns, according to the Naples Daily News.

Rep. Shevrin Jones, D-West Park, wanted all police officers statewide to wear body cameras, the paper reported. Jones removed the mandate provisions after lawmakers expressed concerns about imposing state requirements on local law enforcement agencies, according to the paper.

The bill now requires the law enforcement agencies that already use body cameras

to develop procedures on how to use them and how to store the recordings, the paper reported.

Some lawmakers and other groups are still concerned with how the bill will impact privacy of both police officers and citizens, according to the paper. The cameras could potentially record all daily activities, even those not involving law enforcement duties.

Jones said he is willing to work with police groups to add privacy provisions to the bill, the paper reported.

Source: Naples Daily News

**FIRST
AMENDMENT**

Bill to close searches passes committee

TALLAHASSEE – A bill that would provide secrecy for top university job searches passed a Senate committee, according to the Orlando Sentinel.

Rep. Alan Hays, R-Umatilla, proposed a bill that would exempt from Florida's Public Records Law information about applicants for the jobs of president, provost or dean at state universities and colleges, the paper reported. Schools would have to release the names of finalists for positions at least 10 days before selection for the job.

The bill addresses concerns that qualified

candidates may hesitate to apply for positions at state universities because they know the information is public record, according to the paper.

The Senate Higher Education Committee voted 7-2 to pass the bill, the paper reported.

Critics of the bill say citizens and members of the university communities have the right to know about job searches, the paper reported.

Source: *Orlando Sentinel*

ACCESS RECORDS

Cabinet agrees to open firing

TALLAHASSEE – Gov. Rick Scott and the Florida Cabinet agreed that firing a Cabinet-level state agency head must be done in public, according to The Miami Herald.

Scott and his Cabinet members also agreed to take a two-hour course on Florida's Sunshine and Public Records laws, the paper reported.

Scott fired former head of the FDLE Gerald Bailey without a public vote, which caused a lawsuit from media organizations across the state, according to the paper. The lawsuit accuses all four Cabinet officials of breaking the law by removing Bailey without a public discussion or vote.

Source: *The Miami Herald*

Scott will not assign special prosecutor in FDLE case

TALLAHASSEE – Gov. Rick Scott refused a request to assign a special prosecutor to investigate the dismissal of the head of the Florida Department of Law Enforcement, according to the Tallahassee Democrat.

The First Amendment Foundation sent an open letter to Scott and members of the Florida Cabinet calling for a special prosecutor to look into former FDLE chief Gerald Bailey's dismissal, the paper reported.

The group sent the letter after State Attorney Willie Meggs said several times he has no plans to investigate the matter,

according to the paper. Several state and federal agencies have called for an investigation.

Scott told Bailey to resign from his position at the FDLE in December, the paper reported. Cabinet members said they believed Bailey resigned or retired, not that Scott had forced him out,

the paper reported.

A large group of media organizations filed a lawsuit claiming Scott violated Florida's Sunshine and Open Meetings laws in dismissing Bailey. Scott admitted he mishandled the matter, according to the paper.

Source: *Tallahassee Democrat*

OPEN GOVERNMENT

House subpoenas Clinton emails

WASHINGTON, D.C. – A U.S. House of Representatives committee issued subpoenas to get more information on Hillary Clinton's use of personal email to conduct public business, according to USA Today.

The House Select Committee on Benghazi issued subpoenas to the State Department in order to potentially re-open the investigation on the 2012 attack, the paper reported. The committee also issued subpoenas to other individuals who may have information on the investigation and asked Internet companies to preserve any relevant records.

A White House spokesman said Clinton could comply with federal law by forwarding all her emails to the State Department, according to the paper.

Critics say Clinton's use of her private email makes it impossible for the State Department to comply with subpoenas and Freedom of Information Act requests.

Judicial Watch filed a lawsuit against Clinton, claiming that the State Department did not respond to its FOIA request, the paper reported.

The Associated Press also filed a lawsuit to force the release of emails it requested, according to the paper. The AP made six formal requests for the emails.

"The press is a proxy for the people, and AP will continue its pursuit of vital information that's in the public interest through this action and future open records requests," said AP General Counsel Karen Kaiser.

Source: *USA Today*

FREEDOM OF INFORMATION

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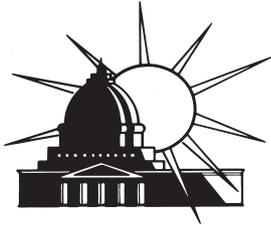
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Posting FOIA releases online saves time and money

The silver lining of the Hillary Clinton email debacle is that the Department of State is well positioned to post all of Clinton's emails online for the public to view after it reviews them for release. Unfortunately, according to a government-wide FOIA audit conducted by the National Security Archive to celebrate Sunshine Week, the majority of federal agencies are not so well situated.

Nearly twenty years after Congress passed the Electronic Freedom of Information Act Amendments (E-FOIA) – only 40 percent of agencies follow the law's instruction for systematic posting of records released through FOIA in their electronic reading rooms. The remainder seem willing to keep the public ignorant of their records, because in the digital age if it's not online, it might as well not exist.

Some "E-Stars," including the State Department, FBI, and agencies participating in the government's opt-in FOIA portal FOIAonline, exist within the federal government and serve as examples to lagging agencies that technology can be harnessed to create state-of-the-art FOIA platforms that save agencies time and money and help decrease FOIA backlogs. There are, however, many "E-Delinquents" whose abysmal web performance recalls the teletype era and continues to hinder their overall FOIA performance.

Since 1966, FOIA has required agencies to make "available for public inspection and copying" certain defined categories of records. For the first thirty years, agencies satisfied this portion of FOIA with "conventional reading rooms," physical locations where members of the public could review paper or microform copies of the records.

In 1996, Congress sought to revolutionize the public's access to information and the FOIA process by directing agencies to use the Internet to make more information – including documents released by FOIA – available.

Congress believed then, and openness advocates know now, that this kind of proactive disclosure is the only tenable solution to FOIA backlogs and delays, is a prudent, cost-saving practice, and attracts public attention.



*Lauren
Harper*

Currently, many "E-Delinquent" FOIA offices waste resources by refusing to embrace the open government principle of posting FOIA releases online. These analog agencies spend valuable time searching for, reviewing, redacting, and releasing documents to an individual in response to a FOIA request, only to print out a paper version of the document, which may never be published online for a wider audience.

Proactive declassification and posting of records, such as those released about the Columbia Space Shuttle disaster, Deep Water Horizon oil spill, and (hopefully soon) Hillary Clinton's emails, save those agencies huge amounts of processing time for FOIA requests while enriching the public debate because people's curiosity can now be satisfied by just looking online.

In the sequester era, with finite and ever-more-limited government resources, any new request from the public competes for time and effort with every previous request. The only way out of this resource trap is for agencies to put online as many records as possible, those previously released, those likely to be asked for in the future, and those of significant public interest. This way, the FOIA process could ultimately be limited just to those records where a genuine dispute exists about whether they should be public.

Despite static resources and frequently increasing FOIA backlogs, FOIA "E-Stars" have proven that by embracing the Act's principles of proactive disclosure and 21st century technology, even agency FOIA programs marred by over-secrecy (FBI) and exceedingly long response times (State Department) can succeed at vastly expanding the amount of information the public has access to, and guarantee that FOIA resources are not wasted processing documents that become lost, gathering dust in desk drawers.

In the 21st century, if it's not on a screen, it's not in the public domain. This will be the case with Hillary Clinton's emails, as well as other government records.

Lauren Harper is the Assistant FOIA Project Director at the National Security Archive, focusing on FOIA advocacy and open government, as well as on U.S.-Iraq relations.