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# THE BRECHNER REPORT

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*July 2006*

## New autopsy finds teen died from suffocation

TAMPA — The results of a second autopsy of a teen shown on video being struck by boot camp guards suggest he died of suffocation, not complications of sickle cell trait. Martin Anderson, 14, died following the Jan. 5 incident in Bay County.

The video was made public following a public records lawsuit filed by *The Miami Herald* and CNN against the Florida Department of Law Enforcement. *The Herald* has posted the video on its Web site.

### ACCESS RECORDS

Bay County Chief Medical Examiner Charles F. Siebert Jr. conducted the first autopsy, and ruled that Anderson died of natural causes as a result of sickle cell trait.

Dr. Vernard Adams, the Hillsborough County Chief Medical Examiner, came to a different conclusion. Adams ruled that Anderson did have sickle trait, but neither the trait nor the beating caused his death. Adams wrote in a press release that the teen's "death was caused by suffocation due to

actions of the guards at the boot camp."

Adams used a version of the video enhanced by NASA in making his findings.

Tampa State Attorney Mark A. Ober is conducting a criminal investigation into Anderson's death. "I assure the family of Martin Anderson and the people of the State of Florida that my office is working diligently to aggressively investigate all aspects of this case," Ober wrote in a press release.

Ober did not offer a timeline for completing his inquiry.

## Judge keeps mass murder hearing open

DAYTONA BEACH — Despite complaints from defense attorneys, the public and the press were allowed to attend a hearing about statements given by one of four suspects in the 2004 Deltona mass murder.

Lawyers for Jerone Hunter, 19, argued that more news coverage would adversely affect Hunter's right to a fair trial. Hunter and three others are accused of beating six people and a dog to death in August 2004.

### COURTS

Circuit Judge William Parsons declined to keep the public and media from the hearing about whether a videotaped interview between Hunter and detectives should be used in trial.

Parsons conceded that while media coverage might make jury selection more difficult, it was not enough to exclude the public from the hearing.

## FREEDOM OF INFORMATION Newspaper wins lawsuit for FEMA disaster aid records

FORT LAUDERDALE — The *South Florida Sun-Sentinel*'s request to access hurricane-related information from the Federal Emergency Management Agency has been granted by a federal judge.

Judge Kenneth A. Marra, of the Southern District of Florida, asked FEMA to turn over the names of FEMA inspectors, addresses of aid recipients and most e-mails from former director Michael Brown.

The *Sentinel* sued over a year ago

## FBI seeks late journalist's files

WASHINGTON, D.C. — The FBI wants access to nearly 200 boxes of a late investigative reporter's files, notes and papers. The family of Jack Anderson, a longtime Washington journalist, has chosen to fight the government's request.

The FBI seeks information related to a case involving the American Israel Public Affairs Committee. Two former lobbyists have been charged with receiving classified documents in violation of the Espionage Act.

in conjunction with its investigation of potential waste and fraud following the 2004 hurricanes. FEMA refused to release the information, citing privacy concerns.

The *Sentinel* fared better than three Florida newspapers owned by the Gannett Co. In November, a judge for the Middle District of Florida found that FEMA did not have to provide disaster aid records to *The News Press* (Fort Myers), the *Pensacola News-Journal* and *Florida Today*. That case is on appeal.

"I've been doing this for more than 25 years and by a wide margin, this is the most bone-chilling attempt to exercise governmental authority that I have ever witnessed or heard about," said Lee Levine, an attorney whose law partner represents the family.

In June, the Senate Judiciary Committee held a hearing on the FBI's effort. The hearing also touched on a proposed federal shield law and the possibility of prosecuting journalists under the Espionage Act.

# FIRST AMENDMENT

## Government critic arrested during county meeting

BREVARD COUNTY — A government critic was arrested for trespassing after refusing to leave the podium during a meeting of the Brevard County Commission.

Walter Pine, who regularly attends commission meetings, planned to speak on five agenda items. Commission Chairwoman Helen Voltz limited his total

time to 10 minutes.

According to *Florida Today*, when Pine argued he was entitled to more time, Voltz had a sheriff's deputy escort him from the meeting. Pine was arrested for trespassing.

Commissioner Truman Scarborough made a motion to give Pine extra time, but no other commissioners supported his

motion.

"Do we say Walter Pine doesn't have anything valuable to contribute?" Scarborough said. "That would be terrible in a democracy."

County Attorney Scott Knox defended Voltz's actions, citing her right to establish time limits on speakers and remove people for arguing with the chairwoman.

## Senators settle FCAT suit

TALLAHASSEE — As part of a settlement agreement, the state will release background data about temporary workers hired to grade the Florida Comprehensive Assessment Test. Senate Democratic Leader Les Miller (Tampa) and Sen. Walter "Skip" Campbell (D-Tamarac) sued the Department of Education for the information.

The senators have questioned whether the workers, who earn \$10 an hour to grade written answers and essays, are qualified to grade the FCAT.

Test results affect student advancement and are used to assess the performances of schools and teachers.

The information about the workers

will include background data but no identifying information.

"We'll be getting the credentials, the degrees and if their degrees are in education or if they taught school or whatever the case may be," Miller said, according to *The Miami Herald*. "Someone with any other degree we feel may not be competent to do this."

As part of the settlement, neither the Department of Education nor testing contractor CTB/McGraw Hill LLC admit to violating the Public Records Law.

The agreement also states that the senators haven't abandoned their claim that the names of the employees are public records.

## Commissioners admit violating Sunshine Law

POMPANO BEACH — Four Pompano Beach City Commissioners charged with violating the Sunshine Law have agreed to donate \$200 each to charity. In exchange for the commissioners' admission of guilt and donation, prosecutors have agreed that the violations were inadvertent.

The charges stemmed from a 2004 meeting between commissioners Kay McGinn, Susan Foster, Lamar Fisher and George Brummer and Broward County Sheriff Ken Jenne.

The meeting occurred shortly before the commissioners voted on extending Jenne's contract with the city. The commissioners argued that the meeting was not about the contract, but the mishandling of crime statistics by the Sheriff's Office.

"I think that it was an eye-opener for a lot of public officials about how broad the interpretation of the Sunshine Law can be," said

Larry S. Davis, attorney for the commissioners.

## ACCESS MEETINGS

## Indian River leaders cleared

INDIAN RIVER COUNTY — The State Attorney's Office will not pursue charges in response to allegations that Indian River School Board members violated the Sunshine Law.

The complaints alleged that board members talked about a vote to fire the superintendent prior to the Dec. 13 meeting and that board member Ann Reuter tried to pass a note regarding the vote during the meeting. Board Chairman Bill Hughes refused to pass the note

from Reuter to Vice Chairman Kathryn Wilson, according to the *Vero Beach Press Journal*.

The State Attorney's investigation found that since Hughes refused to pass the note, a violation did not occur.

In a memorandum to State Attorney Bruce Colton, Assistant State Attorney Christopher Taylor also found that there was insufficient evidence to prove board members discussed the vote prior to the meeting.

Circuit Judge Robert W. Lee criticized the agreement, but did not invalidate it. "In the Court's view, this settlement does not uphold the purpose of the Florida Sunshine Law," Lee wrote in a statement placed in the case file.

## Advisory opinion cautions against discussion boards

TALLAHASSEE — The Attorney General's Office cautioned a town attorney against a plan to conduct public meetings using an electronic discussion board. According to an informal advisory opinion, Senior Assistant Attorney General Gerry Hammond expressed the office's reservations about burdening the

public to constantly monitor a Web site in order to participate meaningfully.

The opinion was written in response to a request for advice by the town attorney for Ponce Inlet, Michael Cioccetti. The town had proposed an online discussion board that would post notice of topics, be accessible on computers provided

by the town and would allow the public to participate to the same degree as board members. Voting upon issues discussed online would take place at regular meetings.

Hammond advised that extending the public's burden of monitoring the site over days, weeks or months "would not comply with the spirit or letter" of the Sunshine Law.

# 2006 LEGISLATIVE REVIEW

TALLAHASSEE – The following 10 bills enacted during the 2006 legislative session create new exemptions to the state Public Records and Open Meetings laws. The bills become law unless vetoed by Gov. Jeb Bush. Copies of the legislation are available at the Florida Legislature's Web site ([www.leg.state.fl.us](http://www.leg.state.fl.us)). Chief sponsors of the bills are in parentheses at the end of the summaries.

**HB 193 Court Monitors:** Creates a public record exemption for a court order appointing a court monitor and the monitor's reports relating to the health or finances of a ward. Confidentiality expires if a court makes a finding of probable cause. Also creates an exemption for court determinations relating to a finding of no probable cause and court orders finding no probable cause. Such records may be subject to inspection as determined by the court. (*Bogdanoff, R-Fort Lauderdale*)

**HB 459 Donors – Statewide Public Guardianship Office:** Allows donors or prospective donors to the Statewide Public Guardianship Office to remain anonymous. (*Sands, D-Weston*)

**CS/HB 605 Home Addresses – DJJ Employees:** Exempts the home addresses, phone numbers and photos of certain active or former Department of Juvenile Justice employees from the Public Records Law. Similar information about employees' spouses and children is also made exempt. (*Planas, R-Miami*)

**CS/HB 687 Concealed Weapons Permits:** Creates an exemption for identifying information of applicants and recipients of concealed weapons permits. Exempt information can be disclosed to law enforcement agencies and commercial entities for the purposes of law enforcement or homeland security. Disclosure is allowed under specific circumstances, such as upon court order and a showing of good cause. The exemption applies retroactively. (*Adams, R-Oviedo*)

**CS/HB 1001 Fingerprint ID Information:** Makes biometric fingerprint information exempt from public records requirements. "Biometric" is defined as any record of friction ridge detail, fingerprints, palm prints and footprints. The exemption applies retroactively. (*Adams, R-Oviedo*)

**CS/HB 1117 South Florida Regional Transportation Authority:** Exempts certain documents related to the acquisition of land by the South Florida Regional Transportation Authority until

an option contract is executed or until 30 days before a contract for purchase is considered for approval by the authority. (*Greensstein, D-Coconut Creek*)

**CS/HB 1285 Innovation Incentive Program:** Expands the current exemption and creates an exemption for identification numbers, trade secrets, anticipated and average wages, proprietary information and stipulated taxes related to the Innovation Incentive Program. Also exempts sales percentages derived from the Department of Defense. (*Attkisson, R-Kissimmee*)

**CS/HB 1369 Rejected Bids, Proposals or Negotiations:** Creates an exemption for rejected bids or proposals if the agency concurrently provides notice of its intent to reopen invitations to bid or requests for proposals. Also exempts meetings at which negotiations with vendors are conducted, although a recording must be made. The recording enters the public record once the agency announces a decision or intended decision on the bid, or until 20 days after competitive sealed replies are opened, whichever is earlier. (*Evers, R-Milton*)

**HB 1451 Florida Center for Brain Tumor Research:** Exempts individual medical records and information received from an individual from another state, county or the federal government held by the Florida Center for Brain Tumor Research. (*Gannon, D-Delray Beach*)

**CS/HB 7161 State Board of Administration:** Exempts proprietary confidential business information related to alternative investments of the State Board of Administration. The public record exemption applies only when the party submitting the information provides a written declaration adhering to specific requirements. Access is allowed by court order.

*The following bills concerning Public Records and Open Meetings laws were enacted during the 2006 legislative session.*

**CS/HB 41 Expunction/Non-Judicial Arrest Records:** Permits administrative expunction of non-judicial arrest records of individuals who are mistakenly arrested. Requests for expunction must be accompanied by an affidavit executed by the chief law enforcement officer. (*Dean, R-Inverness*)

**HB 1097 Public Records Inspection and Copying:** Requires an agency head who designates a public records custodian to provide public notice of such appointment. The notice must contain

contact information for the records custodian and be prominently posted in parts of the agency's offices accessible to the public and on the agency's home page. Stipulates that the records custodian must respond promptly and in good faith to record requests. "Good-faith response" is defined as "making reasonable efforts to determine from other officers or employees whether such a record exists and, if so, the location at which the record can be accessed." Prohibits a person who is not a custodian of public records or a designee from denying the existence of a record or misleading anyone as to the existence of a record. (*Vana, D-West Palm Beach*)

**SB 1190 Sale or Lease of Public Hospital:** Amends the current statute to clarify that, unless expressly stated in sale documents, the complete sale of a public hospital to a private entity should not be construed as: a transfer of governmental function to the purchaser; constituting a financial interest of the public seller in the private purchaser; making the purchaser an integral part of the seller's decision-making process. The changes also stipulate that the private purchaser is not "acting on behalf of" the seller and is not an "agency" under the state's open government laws. Specific requirements for the "complete sale of the public agency's interest in the hospital" are included. (*Atwater, R-North Palm Beach*)

**SB 1284 Nursing Home Consumer Information:** Allows the Agency for Health Care Administration to substitute electronic access to nursing home inspection reports for paper copies. Also decreases the number of months from 45 to 30 for which reported information must be provided to consumers. Requires the AHCA to publish a Nursing Home Watch List with specified information. (*Fasano, R-New Port Richey*)

**HB 1335 Public Meetings/Monroe County:** Authorizes the Monroe County Board of County Commissioners to use teleconferencing equipment to establish a quorum for a special meeting. Special meetings of the board must comply with the Sunshine Law. (*Sorenson, R-Tavernier*)

**CS/SB 1438 Exempt Records:** Clarifies custodial requirements for records that are confidential and exempt from disclosure pursuant to law. The amendment authorizes records custodians to require an agency or other governmental entity that receives records to acknowledge in writing the confidential

and exempt status of such records.

(*Argenziano, R-Crystal River*)

#### **CS/SB 1506 Electronic Filings/**

**Insurance:** Allows the Financial Services Commission to require that statements or filings from viatical settlement providers, premium finance companies and continuing care provider licensees be submitted electronically. (*Alexander, R-Lake Wales*)

#### **CS/HB Exempt Information/Court Records:**

Extends the deadline by which clerks of court must redact social security numbers, banking account numbers and credit card numbers from court records. The new deadline is Jan. 1, 2008. The clerk cannot be held liable for the inadvertent release of this type of information prior to the deadline. The bill also stipulates that if the clerk of court accepts or stores official records in an electronic format, the clerk must employ "best efforts" to redact sensitive information. The use of redaction software is deemed a best effort. Requires automatic redaction of sensitive numbers from official records and court records after the Jan. 1, 2008 deadline. (*Kendrick, D-Carrabelle*)

*The following 22 exemptions were reenacted during the 2006 session under the Open Government Sunset Review Act.*

#### **SB 512 Identifying Information**

**– Department of Health:** Renews and slightly narrows the current exemption for personal identifying information in health records held by the Department of Health.

#### **CS/SB 792 Communications Tax:**

Reenacts the exemption for all information contained in returns, reports, accounts or declarations received by the Department of Revenue related to the communication services tax.

#### **CS/SB 1212 Agricultural Records:**

Reenacts the current exemption for records reported to the Department of Agriculture which contain individual agricultural records of processes, methods of production, and costs of production, profits, or other financial information.

#### **HB 7007 Child Support Services:**

Renews the exemption for information that reveals the identity of applicants for or recipients of child support services.

#### **HB 7009 Home Addresses – Human Resources Directors:**

Reenacts the exemption from public records requirements for personal identifying information of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district with specified duties; narrows the exemption for such personnel

and the spouses and children of such personnel.

#### **HB 7011 Home Addresses – Code Enforcement Officers:**

Renews the exemption for identifying information of current and former code enforcement officers and their spouses and children; narrows the exemption.

#### **HB 7013 Software Copyright:**

Reenacts, with minor changes, the statute authorizing government agencies to copyright software they produce.

#### **HB 7015 Archaeological Sites:**

Renews, with minor modifications, the exemption for information identifying the location of an archaeological site held by the Division of Historical Resources of the Department of State.

#### **CS/HB 7017 Economic Development Agencies:**

Reenacts, with minor modifications, the exemption for information held by an economic development agency concerning plans, intentions, or interests of a private corporation, partnership, or person to locate, relocate, or expand any of its business activities in this state. Stipulates that such information becomes public 12 months from the request for confidentiality. This period can be extended an additional 12 months upon written request.

#### **HB 7023 Pharmaceutical Caches:**

Reenacts, with minor changes, the public record exemption for medical facility information maintained for terrorism response purposes. Stipulates that the governor's certification of the sufficiency of facilities as part of the state's plan to defend against an act of terrorism is a public record.

#### **HB 7025 Hospital Emergency Management Plans:**

Reenacts, with minor changes, the public record exemption for those portions of a comprehensive emergency management plan that address the response of a public or private hospital to an act of terrorism. Also renews the exemption from public meetings requirements for that portion of a public meeting which would reveal information contained in a comprehensive emergency management plan that addresses the response of a hospital to an act of terrorism.

#### **HB 7033 Security System Plans:**

With minor changes, this bill renews the public record exemption for security system plans for property owned by or leased to the state. The exemption also applies to plans for privately owned or leased property held by a government agency. Also reenacts (with minor changes) the meetings exemption for parts of meetings

that would reveal security system plans.

#### **HB 7035 Motor Vehicle Crashes:**

Renews the public record exemption for reports which reveal the identity, home/work phone number or home/work address of individuals involved in car crashes for 60 days following the crash. The media, insurance companies and attorneys of the crash parties are allowed access under certain conditions.

#### **HB 7043 Identifying Information – Elderly Affairs:**

Reenacts with minor changes the public record exemption for identifying information in records held by the Department of Elderly Affairs relating to a person's health or eligibility to receive services.

#### **CS/HB 7045 Medicaid**

**Pharmaceutical Rebates:** Renews and amends the exemption for the rebate amount, percent of rebate, manufacturer's pricing and supplemental rebate held by the Agency for Health Care Administration pursuant to the Medicaid prescription drug program. Portions of meetings of the Medicaid Pharmaceutical and Therapeutics Committee at which such information is discussed are also exempt. The new changes stipulate that records must be made of the closed portions of meetings.

#### **HB 7047 Tobacco-Settlement Agreement:**

**Agreement:** Reenacts the public record exemption for proprietary confidential business information received by the governor, attorney general or outside counsel representing the state in negotiations for settlement payments under the tobacco settlement agreement.

#### **HB 7049 Surplus Lines Insurance:**

Renews the public record exemption for information provided to the Florida Surplus Lines Service Office under the Surplus Lines Law if disclosure would reveal information specific to a particular policy or policyholder.

#### **HB 7059 Temporary Cash Assistance:**

Reenacts, with minor changes, the public record exemption for information in records relating to temporary cash assistance which identifies a participant or a participant's family or household member. Also exempt are portions of meetings of Workforce Florida or regional workforce groups at which such information is discussed.

#### **HB 7061 Deferred Presentment Providers:**

Renews and slightly changes the public record exemption for identifying information related to a drawer or deferred presentment provider contained in the deferred presentment provider database. A provider may access information it has entered in the database

# NEWSGATHERING

## Police union issues “be on the lookout” for reporter

BROWARD COUNTY — A South Florida television reporter is the subject of a “be on the lookout” advisory issued by a police union. The Broward County Police Benevolent Association posted the “BOLO” on its Web site in response to WFOS-TV reporter Michael Kirsch’s hidden camera investigation on poor

police response to complaints.

The advisory originally included Kirsch’s photo, home address, date of birth and driver’s license number. Kirsch’s information was removed from the advisory after lawyers for WFOS-TV sent a letter to the union.

But in March, the advisory was

reposted with Kirsch’s photo. The date of birth, home address and cell phone number of Gregory Slate, an investigator from a watchdog group involved in the investigation, was also posted.

The BOLO warns that Kirsch, Slate and a black male are “back out on the street” in preparation for another story.

## Anthrax libel suit proceeds

WASHINGTON, D.C. — A libel lawsuit filed by a former bioweapons scientist for the U.S. Army will proceed, after the U.S. Supreme Court declined to throw out the case.

Dr. Steven Hatfill sued *The New York Times*, alleging the newspaper defamed him in columns that levied criticism against the government for not investigating Hatfill in the anthrax cases of 2001.

Letters laced with anthrax, mailed in 2001, killed five people.

U.S. District Judge Claude Hilton of Alexandria, Va. threw out Hatfill’s suit in November 2004.

The 4<sup>th</sup> U.S. Circuit Court of Appeals in Richmond later ruled that the dismissal was inappropriate.

## LIBEL

## NFL mulls ban on local news crews

ORLANDO — National Football League owners have passed a resolution that would keep local television cameras on the sidelines during games. The resolution must be reviewed by member teams before it becomes official policy. A final decision is expected in August.

Journalists will still be able to access the field before and after games, as well as interview players in locker rooms, said NFL spokesman Seth Palanksy.

Barbara Cochran, president of the Radio Television News Directors Association, expressed her concerns about the proposal in a letter to NFL officials.

“When electronic journalists are denied the ability to report on a news event with their own microphones, cameras and production crews, it allows newsmakers to determine the content of the news, a result that is inconsistent with our society’s democratic values,” Cochran wrote.

## LEGISLATION CONTINUED

and may use the database to determine eligibility for a particular person. Access is allowed by court order and a showing of good cause. (Deferred presentment providers offer money in exchange for a person’s check and agreeing to hold the check for specified period of time.)

**HB 7063 Byrd Alzheimer’s Center:** Renews, with minor clarifying modifications, several exemptions for records relating to the Byrd Alzheimer’s Center. Personal identifying information of patients or clients is exempt. Also exempt are materials relating to methods of manufacture, potential trade secrets and potentially patentable material. The exemption also protects the identity of donors who wish to remain anonymous, information received by the center that is otherwise exempt and any information received that is exempt under the laws of another state or federal law.

**HB 7113 Interference with Custody:** Reenacts and changes the public record exemption for the name, address and phone number of a person who takes a minor child and reports such to the sheriff or State Attorney under exception to the offense of interference with child custody. The amendments reflect that the current address and phone number of the person who takes the child and the child are exempt until an investigation is complete and the sheriff or State Attorney

determines that the disclosure of such information wouldn’t jeopardize the minor’s safety. Allows access by other government agencies for the purpose of official business.

**HB 7115 Autopsy Photographs:** Reenacts, with minor changes, the current exemption for autopsy photographs. Access is allowed with a court order and a showing of good cause.

*The following exemptions were introduced but not passed:*

- HB 787 and SB 1712 – Home Parcel Identification Numbers
- HB 1005 and SB 2082 – School Drug Tests
- HB 1103 – Job Openings
- HB 1125 and SB 2462 – Legislative Sunset Advisory Committee
- HB 1279 and SB 2306 – HMO Risk-Based Capital Reports
- HB 1411 – Health Information Network
- SB 1448 – E-mail Addresses
- HB 1469 and SB 2656 – Florida Opportunity Fund
- HB 1507 and SB 1800 – Domestic Violence
- SB 1898 – Crime Scene Photographs
- SB 1976 – Workers Compensation Joint Underwriters Association
- SB 2040 – Investigative Incident Reports
- SB 2192 – Audit Workpapers
- SB 2584 – Background Checks
- SB 2612 – Ethics Commission
- SB 2634 – Donor Information – Historic House Museums
- SB 2746 – Florida Consumer Finance Act

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# The public has the power to keep government open

To say it was a rough legislative session for open government advocates around the state is putting it mildly – with well over 50 new exemptions proposed and nearly 30 existing exemptions poised for reenactment and renewal under the Open Government Sunset Review Act (OGSR), it was extremely difficult to simply keep track of the bills and the various amendments as sponsors and lobbyists pushed the bills through the committee process. In the end, there were 10 new exemptions created and all of the OGSR exemptions, including the public record exemption for autopsy photographs, were reenacted.

Many of the newly created exemptions are justifiable – patient identifying information contained in records held by the state-run brain tumor research center, for example. And the majority of the reenacted exemptions were narrowed during the review process, but some of the exemptions defy common sense and unduly thwart the public's ability to oversee its government.

This session, a public record exemption was created for identifying information contained in concealed weapon permits. Exemptions for adverse incident reports filed by a nursing home with the Agency for Health Care Administration and the right to inspect records held by a government economic development agency concerning a company's plans to locate or relocate its business operations to the state of Florida were reenacted.

Each of these bills precludes any opportunity for public oversight. Is the Department of Agriculture and Consumer Services, issuer of concealed weapons permits, properly reviewing permit applications and giving such permits only to those who are legally qualified? Is AHCA thoroughly investigating nursing home adverse incidents and taking proper action to ensure that problems in our nursing homes are resolved? Is your county or city giving away tax incentives and public property in its attempts to lure the mega-store or power plant to your neighborhood?

This information is critical to our ability to govern ourselves, information that we need in order to make informed decisions



Barbara A. Petersen

about how and sometimes where we want to live, about with whom we'd like to associate. As we have seen this session, our government routinely denies us our right of access and oversight without justification or constitutionally sufficient good cause.

Equally troubling this year was the negative attitude of many legislators towards our constitutional right of access. This negativity was evidenced not only by the dramatic increase in the number of open government bills filed during the 2006 legislative session, but also by the lack of debate and deliberation in committee and on the floor on these vitally important bills. Debate on a bill designating key lime as the state pie is amusing, certainly, but consideration of legislation creating exceptions to our constitutional right of access requires far more serious consideration, discussion, and decorum.

Yet, one would think listening to deliberation of open government bills in committee and critical floor debates that this is not the case: Too frequently, these bills are passed out of Senate or House committees with little or no debate, and legislators offering well-intentioned amendments designed to narrow over-broad exemptions are treated with derision and even laughter on the House floor. The lack of respect by certain House members for this very important constitutional issue – remember, every exemption to our Public Records Law or Open Meetings Law is, in fact, an exception to the constitution – is disheartening and depressing.

But this is an election year, and we have the power to vote those who disrespect our constitutional right of access out of office. So ask candidates about their position on open government issues, question incumbents about their votes on exemption bills or their response to concerns from citizens regarding government-in-the sunshine, and cast your vote accordingly.

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*Barbara A. Petersen is president of the First Amendment Foundation in Tallahassee, Fla. A list of all open government bills considered during the 2006 legislative session, as well as a brief synopsis of each bill that passed, is available on the First Amendment Foundation's Web site, [www.floridasaf.org](http://www.floridasaf.org).*