

student press law center

report

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Hacking away at Hazelwood

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Student Press Law Center Report

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UCLA newspaper uncovers millions in settlements, named winner of scholastic press freedom award

WASHINGTON, D.C. — The California student newspaper that sued its university for information about the out-of-court settlement of sexual harassment and assault claims against the school has been named the recipient of the 1994 Scholastic Press Freedom Award.

The *Daily Bruin* at the University of California at Los Angeles was announced as the winner of the award at the Associated College Press/College Media Advisers national convention in New Orleans, La., on Nov. 5.

The award, sponsored by the Student Press Law Center and the National Scholastic Press Association/Associated Collegiate Press, is given each year to the high school or college student journalist or student news medium that has demonstrated outstanding support for the free press rights of students.

The *Daily Bruin*'s battle for information about the settlements began in the fall of 1992 when the newspaper staff learned that financial settlements had

been made by the university. When school officials refused to provide details, the *Bruin* and then-editor Josh Romonek filed a lawsuit claiming that the records of the settlements must be open to the public under the California open records law. The American Civil Liberties Union of Southern California represented the newspaper in the lawsuit.

In April 1994, Los Angeles Superior Court Judge Robert O'Brien ruled after only 20 minutes of argument that the school would have to comply with the newspaper's request. When the university finally released the documents just before the school year ended in June, the records uncovered that the University had paid out over \$1 million in sexual harassment and assault settlements in the period between 1989 to 1993. One of the cases involved a settlement of \$300,000 to a female student who was raped by intruders in her campus dorm room. In another case, an attorney for a

woman who received \$163,000 for her sexual harassment claim said the university insisted that the settlement be confidential, not her client.

In presenting the Scholastic Press Freedom Award to *The Daily Bruin*, Student Press Law Center Executive Director Mark Goodman cited the newspaper's uncompromising support for the public's right to know how its tax and tuition dollars are being spent.

"At a time when concern about sexual harassment and crime on campus is growing, the *Bruin* let its readers know that it takes seriously its role as a watchdog of the government," said Goodman. "All too many public colleges and universities just don't realize that they can't promise away the public's right to information about these important topics. The *Daily Bruin* case is sending a wake-up call to schools around the country."

Nominees for the scholastic Press Freedom Award are accepted until Aug. 1 of each year. ■

The Report staff

Signe Brunstad is a senior at Washington State University double-majoring in English/Pre-Law and Journalism and minoring in Spanish. In addition to pursuing a legal career, you will one day recognize her as the all-powerful Norse warrior-spirit Valkyrie on *The American Gladiators*.

Meghan Gourley is a 1994 graduate of John Carroll University where she received her B.A. in Communications. In addition to being awarded the 1993-94 *Los Angeles Times*/Associated Collegiate Press "Story of the Year" Award, Meghan also counts among her many talents the ability to belittle others in a fun and loving manner. She intends to pursue a career in journalism and leaves the SPLC having already landed her first Washington-based publishing job. ("Would you like envelopes with that resume, sir?")

SPLC releases new book

Expanded *Law of the Student Press* edition covers press law relevant to student media

As part of its twentieth anniversary celebration, the Student Press Law Center has published a new edition of its book *Law of the Student Press*. The book covers press law topics of relevance to the student media.

The first edition, published in 1984, was the first book to examine the legal issues confronting student journalists on both the high school and college level. But since its publication, court decisions have been handed down changing important legal principles. The Supreme Court's 1988 decision in *Hazelwood School District v. Kuhlmeier*, for example, dramatically altered the scope of free press protections for high school journalists.

The new book provides a current look at student press law. It is divided into two sections: student press freedom and a press law handbook. Chapters in the book include High School Press Freedom, College Press Freedom, Private School Press Freedom, The "Underground" Press, The Electronic Media, The Rights of Advisers, Defamation, Invasion of Privacy, Obscenity, Copyright Law, Reporters' Privilege, Freedom of Information Law and Advertising Concerns. At 269 pages, the book is more than twice as long as the first edition.

Law of the Student Press is available from the SPLC for \$12.50 plus \$2.50 shipping. ■

The education of ideas

While administrators decide what is in the best interest of their schools, student journalists are missing out on a real education

Although many of the ways in which administrators handle the student press can be called censorship, most take great offense to being labeled a "censor."

One of the most common reasons for censoring a newspaper, in any form, is what school officials say they believe to be "in the best interest of the school."

At Monmouth College in New Jersey, Vice President for Student Affairs Mary Anne Nagy said she understood that her removal of the newspapers from distribution bins could be interpreted as censorship, but she was "only acting in the best interest of the college." (See *HINDSIGHT*, page 9.)

At Western Nebraska College in Scottsbluff, administrators ordered the maintenance staff to remove papers from their bins because of a controversial column about black athletes. (See *FOR THE GOOD*, page 9.)

David Groshans, assistant to the president, said the school's responsibility to the student body comes first — the article upset several people, and the school needed to "assess the situation" before releasing the papers.

However, holding the newspapers, even temporarily, is still unconstitu-

tional, according to Louis Ingelhart, a retired journalism professor from Ball State University in Indiana.

Groshans disagreed with the notion that in protecting one student's rights, one may be infringing on another's.

School administrators may be more aware of the consequences of printing controversial stories, but many journalism educators believe students must learn those consequences for themselves.

Ingelhart said that censorship of student publications distorts the learning process for all students.

"When students are told [censorship] is done for everyone's good and the

government is justified in their control," said Ingelhart, "they come out of school believing it."

Although, in the case in Nebraska, school officials had a

right to criticize the editor for choosing to print such an article, Ingelhart said the removal of the papers, even temporarily, limited the learning experience for the newspaper staff.

"Censorship for a brief period of time is just as chilling," said Ingelhart. "That notion lends itself to poor writing and poor attitudes toward the press."

Most agree that student journalism

and student publication exist to provide a hands-on learning experience for students that will enable them to develop a sense of responsible journalism. In practice, many administrators have suggested that the only responsible choice is the choice they themselves would make.

"What is college for but to contend with ideas, even those ideas which others despise," said Ingelhart. "The First Amendment protects it all."

What seems to be an uncommon occurrence among school administrators is the notion that, no matter how good or genuine one's inten-

tions might be, the reasons for censorship may never be justified.

"An editor [at a public college] has a guaranteed right to publish an article or column, even if it is

Many administrators have suggested that the only responsible choice is the choice they themselves would make.

racist," said Ingelhart.

In the case of Monmouth College, Nagy said she could understand how her actions could be perceived as censorship. More importantly, in hindsight, she said she regrets removing the newspapers.

Let it never be said the lessons of student journalism only extend to student journalists. ■

Supreme Court to decide publication funding question

Decision could affect Hazelwood's impact on the college press

VIRGINIA — The U.S. Supreme Court agreed in November to hear the case of *Rosenberger v. University of Virginia* involving a student magazine that was denied funding by the university because of its religious content.

The case could help determine whether the Supreme Court's 1988 *Hazelwood* decision applies to the college student media.

The magazine, *Wide Awake*, was denied student activity fees by a student government committee in 1991 because of the publication's religious focus. The university's guidelines prohibit the funding of a "religious activity," which is defined as "an activity which primarily promotes or manifests a particular

belief(s) in or about a deity or an ultimate reality."

Founder and publisher of the magazine, Ronald Rosenberger, said the magazine was intended to provide a "Christian perspective to the University of Virginia."

In July 1991, Rosenberger filed a lawsuit against the university for violation of his constitutional rights, and the trial court ruled in favor of the university.

The decision was upheld by the U.S. Court of Appeals for the Fourth Circuit in March 1994.

The court said that denial of a student publication's request for funding based on its content will be presumptively unconstitutional, but that the school's



interest in avoiding excessive entanglement with religion justified the restriction in this case.

Although the court did not refer to the Supreme Court's *Hazelwood* decision, the ruling suggested that college journalists are entitled to much greater First Amendment protections than high school students.

The case will be heard before the Supreme Court but has yet to be scheduled for oral arguments. ■

Student newspaper sues college under open meetings law

NEW YORK — A year of alleged harassment has finally resulted in a lawsuit by the student newspaper of LaGuardia Community College against the school administrators.

Dissension began in October 1993 for the *Bridge* when editor Joseph Smith printed an opinion piece many believed was anti-Semitic that provoked huge controversy among New York's tabloid media, according to Ronald McGuire, the newspaper's attorney.

As a result, LaGuardia president Raymond Bowen created a subcommittee of the college association, the body that allocated student activity funds, to determine if the column had violated college regulations and bylaws, and the *Bridge* was suspended from publishing until the investigation was complete. The formation of this committee was illegal, according to McGuire.

"If anyone has a complaint about a student publication, he/she should go to the Dean of Students," McGuire said. "The Dean of Students should then conduct an investigation, and a student/faculty disciplinary hearing should take place;

you can't suspend without a prior hearing."

However, investigation of the newspaper took place, and the committee was scheduled to give a report on their findings at a March 30, 1994, college association meeting. Also at this meeting,

approximately \$100,000 in funds were allocated to other student organizations, according to McGuire.

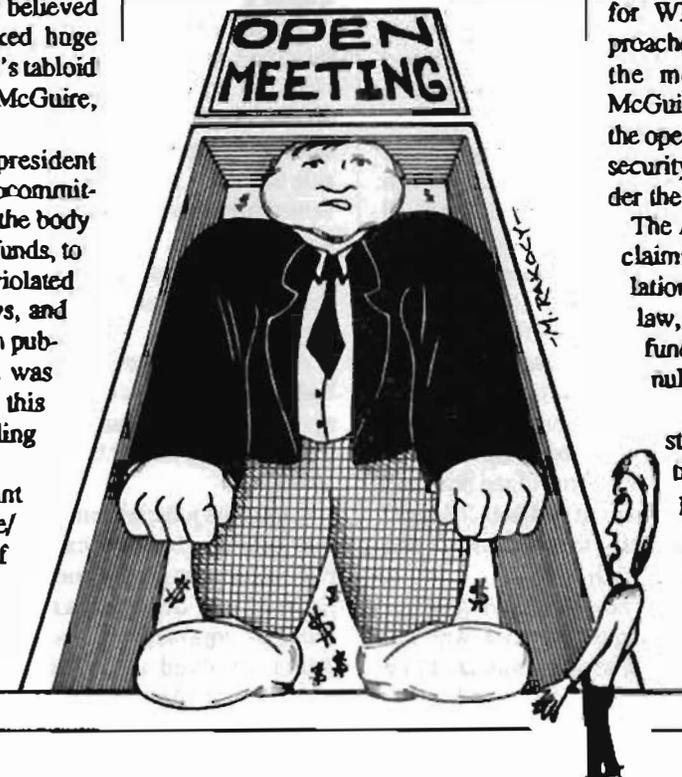
McGuire and Smith tried to attend but were refused.

According to McGuire, he, Smith and Errol Maitland, a broadcast journalist for WBAI in New York, were approached by a security guard and told the meeting was closed. Despite McGuire's efforts to be admitted under the open meetings law of New York, the security guard refused their request under the direction of her supervisor.

The *Bridge* is now suing the college claiming the closed meeting was a violation of New York open meetings law, and all actions and allocations of funds made at the meeting should be null and void, according to McGuire.

According to the newspaper staff's petition, the alleged violation of the law was a "part of a pattern of illegal activity aimed at illegally violating the First Amendment and Due Process Rights of a student newspaper at a public college in retaliation against the editors..."

However, administrators
(See LAGUARDIA, page 12)



College Censorship

Supreme Court orders rehearing of prof's case

NEW YORK — The U.S. Supreme Court vacated a lower court decision in November that ordered university officials to reinstate a black professor who is fired from his department chair position after delivering an off-campus politically incorrect speech.

The U.S. Court of Appeals for the Second Circuit upheld in April a U.S. district court's decision to reinstate professor Leonard Jeffries as chair of the black studies department at City College of New York.

Now the Supreme Court has ordered the appeals court to reconsider its ruling in light of a recent high court decision acknowledging broad government power over employees' speech.

The Supreme Court said the court needed to reconsider its decision in light of a May ruling in the case *Waters v. Churchill*, which allowed the government to discipline employees for speech

that could reasonably be expected to harm the government agency they worked for.

Jeffries delivered the controversial speech in Albany in 1991 at an off-campus symposium on black culture. Many called the presentation racist and anti-Semitic. University officials then decided to reduce Jeffries' upcoming term as department chair from three years to one.

City College of New York spokesperson Rita Rodin said Jeffries' tenure as a professor was never in jeopardy.

Jeffries had caused controversy before with his theory of white "ice people" and black "sun people," but the courts linked his dismissal from the chairmanship to the Albany speech.

The appeals court said university officials had violated Jeffries' free speech rights. "First Amendment protection does not hinge on palatability of presen-



tation; it extends to all speech on public matters, no matter how vulgar or misguided" the court said in *Jeffries v. Harleston*, 21 F.3d 1238 (2nd Cir. 1994).

No date has been set for reconsideration in the court of appeals. ■

Court rules former editor cannot sue school

PENNSYLVANIA — A judge ruled in September that West Chester State University was protected by sovereign immunity from a lawsuit involving the former editor in chief of the student newspaper, *The Quad*, and a group of students.

Former editor in chief Amy Angelilli sued for false imprisonment and negligent supervision after a March 11, 1993, incident when she was held hostage by a group of Black Student Union members, according to Angelilli.

Angelilli said problems began when she and then managing editor Beth Mayall asked *Quad* columnist Penny Washington to "branch out" in her writing. Washington wrote mostly about racial issues, according to Angelilli, and she suggested Washing-

ton cover different issues as well.

However, according to Angelilli, Washington accused her of being racist and asking her "to write like a white writer."

The tension finally resulted in a confrontation between Angelilli, Mayall and 20 Black Student Union members. They entered Angelilli's and Mayall's small office located behind the main *Quad* office and demanded to speak with Angelilli and Mayall.

"The blinds were pulled and a wall of about four men stood in front of the door and around me and Beth [Mayall] refusing to let us leave," said Angelilli.

"They were trying to intimidate me, so I was not going to talk about anything like that [relating to her dis-

cussion with the columnist under those conditions]," said Angelilli.

While the two were held in the office, the newspaper adviser, the university's public affairs director, and public safety officials remained outside the office and were prevented from entering, according to Angelilli.

Finally, after an hour, the student union members left the office.

Angelilli said she initially had planned to press charges against the students, but chose to have the university handle it instead.

A campus judicial hearing was held in which the campus public safety department pressed disciplinary charges against the students involved in the incident and Angelilli was

called as a witness to testify.

After the conclusion of the hearing, school officials refused to tell Angelilli the outcome claiming the federal Buckley Amendment prohibited the information from being released.

According to Angelilli, a ban was placed on *The Quad* restricting the newspaper from any direct contact with Washington. However, Washington was permitted to continue writing for the newspaper and she submitted her column every week.

Because Angelilli was unsatisfied with the handling of the judicial hearing, she sued the university for not responding quickly enough to what she described as a hostage situation.

According to Vincent (See LAWSUIT, page 13)

Under investigation

Oklahoma schools may face charges of censorship

East Central University students struggle both in and out of the classroom to gain free press rights

OKLAHOMA — The hand of administrative control may be slowly losing its grip on both journalism students and faculty at East Central University in Ada after state wide attention to charges of censorship.

"We need to find out what policies exist between the administration and newspaper" said Mick Hinton, Oklahoma chairman of the Society of Professional Journalists First Amendment Committee, "and then determine what is wrong with them."

Hinton said SPJ became involved last May when various Oklahoma university and college journalism professors complained of censorship problems.

"We found that generally students were discouraged from covering the news," said Hinton.

Former editors and staff members of the *Journal*, East Central's official student newspaper, said the pressure to "publish certain things" always existed.

"It was an unwritten rule," said Roy Deering, a former editorial writer in the late 1980s. "You were told what to do and what to put in."

Deering said he felt the most control

editorials.

"I thought that was a little harsh," said Deering. "And had I known any better, I would have done something then."

Although he was not sure how differently the *Journal* is run today, he said it was not uncommon during his tenure for most of the staff to be non-journalism or non-communications majors who knew little about basic journalism principles and freedom of the press. Deering said it is very possible that if the same is true for the current staff, they may be too naive to even realize they are being controlled by administrators.

"What could they possibly know about detachment and objectivity if they have not even had a basic journalism course," said Mike Miller, fall 1990 *Journal* editor.

However, according to current editor Cherity Harris, the staff is made up of all journalism and mass communications majors.

Miller said the problems of control (See EAST CENTRAL, page 12)

"Congress shall make no law... abridging the freedom of speech or of the press... except in Oklahoma"

when a member of the Oklahoma Board of Regents complained to the university president after Deering criticized the board in an editorial and was subsequently prohibited from writing further

Adviser forced to resign at Panhandle

OKLAHOMA — After two years of serving as a journalism instructor and adviser to *The Collegian* at Panhandle State University, Shawn Murphy said he was forced to resign.

"The only negative feedback I ever received was in advising the newspaper," said Murphy.

According to Murphy, Vice President for Academics Ray Brown asked him to "keep a close eye on the newspaper because there was too much 'bad news.'"

"I didn't see it as 'bad news,'" said Murphy. "News is news."

Murphy said he refused to edit or

review the paper prior to print.

"It wasn't my paper, it was the students'" he said. "It was not my role to do the work for them."

Murphy said he was warned by Brown if he did not comply, "there may not be a job here for you next year."

And there was not.

After the holiday break last January, Murphy was notified his contract was not going to be renewed, and no reason was given. According to Murphy, the university suggested he submit a letter of resignation.

Brown refused to comment.

(See PANHANDLE, page 13)

Redlands Community College newspaper stops publishing; faculty adviser removed

OKLAHOMA — The editor said it was a shutdown. The president said it was a canceled class. Whatever you call it, *The Journal* at Redlands Community College is not publishing anymore.

Former editor of *The Journal*, Brent Wilcox, returned to the El Reno school to begin his year as editor to find some changes had been made.

Former faculty adviser Kelly Rupp had been removed as adviser after a "load change" done each year to determine where faculty skills would best be (See REDLANDS, page 17)

DJs still spinning after temporary terminations

WASHINGTON — A district court judge ruled in July that the termination of six disc jockeys from the University of Washington's campus radio station, KCMU, was unconstitutional, and declared the station's "no-criticism" policy a violation of the First Amendment.

In 1992, then station manager Chris Knab, fired eight volunteer DJs and news staff, and three others resigned, all on separate occasions for violating the station's policy which stated that "on-air criticism of KCMU/University of Washington staff or management policies is strictly prohibited," according to the court decision. The policy included not only on-air criticism, but "whenever an individual is acting as a KCMU representative."

The criticism that prompted the firings resulted from proposed changes in radio shifts, paid DJ positions and implementation of a syndicated broadcast, all of which volunteers resisted. Not only was the criticism by KCMU staff voiced on the air, but in electronic mail messages and letters.

Defendants in the case - Knab, the University of Washington, University Director of Broadcast Services Wayne Roth and current station manager Tom Mara, maintained that as holders of the Federal Communications Commission license, "they have sole, unlimited discretion to decide what will be broadcast and to exclude any broadcasting of material critical of the station or university," according to the decision.

When volunteer DJs, Alexis Edwards, Julie Wroble and Michael Fuller, and news department volunteers Alice Fisher, Irwin Pollack and Allen Posewitz voiced their criticism of the proposed changes, and were subsequently fired, Judge Thomas S. Zilly ordered them reinstated on the basis that the defendants violated their First Amendment rights.

According to the decision, "The court finds that complaints of general disruption of the station cannot be traced to the volunteers' speech, as opposed to reactions by members of the staff and general public to learning about the programming

(See KCMU, page 13)



NCAA recovers fumble

FLORIDA — The pen has proven to be as mighty as the football at the University of Florida.

When senior offensive lineman Anthony Ingrassia became *The Independent Florida Alligator's* newest restaurant critic, he did not anticipate a conflict of interest with the National Collegiate Athletic Association.

According to Steve Mallonee, director of legislative services for the NCAA, Ingrassia was possibly violating the by-laws of the NCAA, which state that an athlete cannot promote or endorse a product.

After his second review was published in the *Alligator*, Ingrassia said he was approached by Jamie McCloskey, university associate athletic director for compliance, who ordered him to stop writing because his eligibility was in question.

"After I stopped writing, I don't think [the NCAA] would have gone any further with it," said Ingrassia. "But it got a lot of media attention."

Ingrassia said he was initially suspended from participating in one game, but then he petitioned the NCAA to reconsider their decision.

After interpreting the by-laws, Mallonee said Ingrassia was not in violation and could resume writing restaurant reviews, but only under several conditions.

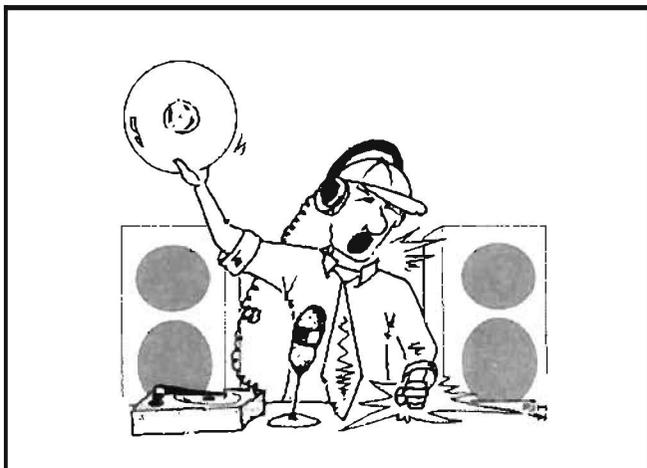
The first, he may not ask to write a review of a specific restaurant, rather, he must be asked to do so. Secondly, he may not receive any benefits from the review; for example, he may not be paid to write the article and must pay for the meals himself.

Mallonee said the interpretation makes a distinction between endorsing a product and issuing an opinion, the latter, allowable.

"As long as you meet those criteria," said Mallonee, "there won't be a problem."

There would be a problem, however, if a student athlete wanted to write for a commercial newspaper. According to Mallonee, an athlete is viewed as endorsing the newspaper he/she writes for, which is considered endorsing a product. However, in Ingrassia's case, that was not considered an issue

(See NCAA, page 13)



For the good of the students

Administrators order maintenance staff to remove papers from distribution bins

NEBRASKA — School officials ordered the maintenance staff at Western Nebraska Community College to remove all of the newspapers from distribution bins and to stop further distribution as a result of a controversial column about black athletes.

According to editor Julie Preston, several black basketball players met with college president John Harms to complain about the column they felt was racist.

The column, written by Ranae Harris, compared the performance of athletes based on their races.

"The article was very offensive to black students," said Assistant to the President David Groshans. "We didn't want to cause any undo harm to anyone, including the author."

Preston said administrators ordered the newspapers to be confiscated until they could meet with the newspaper staff to determine what options were available.

According to Groshans, the "college has a right to look at situations as they arise and determine what should be done to protect the best interest of all the students involved.

"Our intent was not to censor the newspaper," said Groshans. Because the papers were held only temporarily, according to Groshans, the issue is not over First Amendment rights, and would be only if the papers were held "on a per-

manent basis."

Preston and Harris met with Harms, and at that time Preston said she was given the option to publish an alternative article in place of the column and the college would absorb the cost, or to run Harris' column as it was written initially.

The next day, Preston redistributed the newspapers to their bins with Harris' original article.

Groshans said he believed Harris had a right to say what she did in her column, re-



gardless of whether or not it was considered racist, just as the angry students had a right to be offended. Despite that, Groshans maintained the college was not infringing on

anyone's rights by confiscating the newspapers.

"We always put the students first," said Groshans. "And we do the responsible thing a college must do." ■

Hindsight is always 20/20

Administrator apologizes for snatching newspapers

NEW JERSEY — An administrator said she understood how "relocating" the student newspaper at Monmouth College in West Long Branch, could have been perceived as censorship.

In October, Mary Anne Nagy, vice president for stu-

dent affairs, removed approximately 2,500 copies of *The Outlook* from a high traffic area distribution bin, according to editor in chief, Julian Garcia.

The issue contained a front page article reporting on an alleged assault that occurred on campus, and Nagy re-

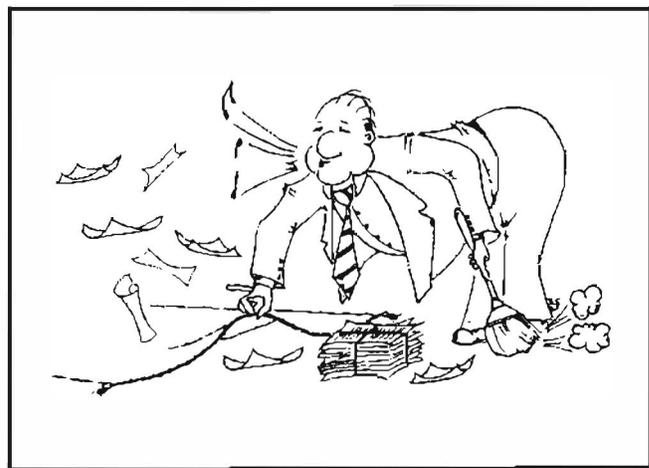
moved the papers just prior to parents weekend, Garcia said.

"If it's happening," said Garcia, "parents need to know about it."

Garcia said Nagy notified him of the removal and the whereabouts of the newspapers after parents weekend.

As a result, *The Outlook* published a story on the incident to alert students, although Garcia said he doubts it will happen again.

In response to the article, Nagy sent a letter to Garcia explaining that although her motive in deciding to relocate the newspapers was "solely in the best interest of the college," she could see how "one can interpret it as censorship," said Nagy. "In hindsight, I should not have moved them." ■



While the trend of newspaper theft continues, editors fight to establish

The value of a newspaper

Although the tales of newspaper theft seldom have happy endings, theft became a positive learning experience for the students of Troy State University in Alabama.

Reginald Butler, a track student arrested for second degree theft of property for allegedly stealing a credit card from a dorm room, admitted to stealing approximately 800 copies of the *Tropolitan* on April 14, 1994, the day it reported his crime.

According to Gordon "Mac" McKerral, publications adviser at Troy State, yearbook student Amanda Keele called him in the early morning of April 14, because she witnessed a man taking a bundle of newspapers. In a university police report, Keele said she witnessed Butler "take the whole stack of [*Tropolitans*] that were in the Hamill Hill lobby...then we saw him take the *Trops* from his car. After he went to his car, he went into Gardner Hall and came out with another stack of *Trops*...he said there's been an article printed that wasn't supposed to be and I'm collecting them."

McKerral contacted the campus police who then contacted Butler who subsequently admitted to stealing the papers. McKerral said he planned to press criminal charges against Butler, but initially the campus police believed there were no grounds to press charges because the *Tropolitan* is free. However, the *Tropolitan* has a single copy free policy included in its nameplate and masthead stating each additional copy is 5 cents.

Although a newspaper may be free, McKerral said the value of a newspaper can be established in other ways. For example, when newspapers are stolen, advertisers are not getting the exposure they paid for, possibly causing them to no longer place ads, and production costs such as phone calls, supplies and salaries are lost.

To better illustrate the expense of newspaper production, McKerral pro-

vided a cost breakdown to determine the value of each newspaper and it reflected a cost of 21.5 cents per paper.

The police then told McKerral that if he chose to, he could press criminal charges.

The theft of the newspapers could have been a class A misdemeanor, third degree theft, which carries a maximum of one year in jail and a \$2,000 fine.

McKerral said he was encouraged by university officials not to press charges, but he wanted to publicize the incident to make the university community more aware of the theft. As a result, he agreed not to press charges as long as Butler agreed to several conditions.

Butler was to write a signed letter to the editor apologizing for stealing the newspapers. He was to compensate the newspaper for a portion of the cost of the stolen papers which amounted to \$75. On Thursday mornings, Butler was to help in the distribution of the 4,000 newspapers across campus. Additionally, Butler will be a writer/columnist for the *Tropolitan* for three academic quarters covering Troy State University track.

Although McKerral said he was subject to much criticism for not pressing charges, he is satisfied with the outcome.

"Although we lost the opportunity to set a legal precedent, I felt this was the best thing for everyone," said McKerral. "I wanted [Butler] to gain a sense of respect for the newspaper and see how much work goes into its production every week."

Other newspaper thefts reported to the Student Press Law Center since July include:

- University of Washington in Seattle, — Editors believe controversial stories were the motivation behind two incidents of newspaper theft in the spring of 1994.

The *Daily* editor Jonathan Martin said in both cases, the first in February and the second in April, unfavorable articles were published immediately preceding the

thefts.

In February, *The Daily* printed a story about an intra-fraternity fight that resulted in arrests of students.

The day the story ran, 8,000 of the total 18,000 copies printed that usually are available at noon were gone, according to Martin.

"It's hard to estimate exactly how many papers were stolen because it is free," said Martin.

Two months later, an investigative story was printed in *The Daily* regarding a discrimination lawsuit filed by a maintenance employee against his supervisor. The day the story ran, newspapers available in the area where the employee was stationed disappeared.

Although *The Daily* has taken no legal action, Martin said the newspaper printed a brief following the February incident, alerting the university community of the thefts and asking for assistance in finding the thieves and offering a reward; however, *The Daily* received no response.

- University of Alabama at Birmingham — Newspaper thieves will now face possible expulsion as a result of the theft of 5,500 copies of the campus newspaper, the *Kaleidoscope*, in the spring of 1994, according to adviser Stephen Chappel.

Last June, two-thirds of the total press run of the *Kaleidoscope* were stolen from the newspaper racks. Chappel said he believed the theft was related to a controversial story published about a former assistant professor charged with sexual harassment and sexual misconduct.

Chappel said the campus police said they could not do anything about it because they believe if a newspaper is free, it cannot be stolen, despite cases in both Florida and Pennsylvania where students were criminally charged by prosecutors for stealing complimentary newspapers.

Although an effort was made to find the stolen newspapers, it proved un-

cessful, and as a result, no arrests were made.

"Although the campus police have been uncooperative, the administration has been very responsive to the thefts," said Chappel. As a result of the incident, the school has pledged to discipline students who steal newspapers with possible expulsion. The theft punishment policy was proposed to the board of publications, and now is part of the university regulations.

- University of Northern Colorado in Greeley — The theft of almost an entire press run of the student newspaper last April was deemed "appropriate" by the university president, according to *Mirror* editor in chief John Gimlin.

A group of Latino students stole nearly all of the 7,500 newspapers printed that contained two negative columns, both regarding the student elections. One, written by news editor Kimberly J. Humphreys, said issues affecting minority students cannot be addressed by the student government alone.

The second column, written by Gimlin, said students should not have voted for Imani Abdul Rashid, a black student who was elected the student representative to the school's board of trustees.

The group that stole the newspapers, MEChA [Movimiento Estudiantil Chicano de Aztlan organization] returned the newspapers in garbage bags, according to Gimlin, along with a list of demands including that he and Humphreys resign their positions.

Gimlin reported the incident to the police who referred the case to the district attorney; the district attorney, however, found no grounds to press charges, according to Gimlin.

Gimlin said he met with university President Herman Lujan and other staff members to discuss the thefts. However, Gimlin said Lujan said the columns were "wrong and the response of the students was appropriate."

- University of Buffalo; Buffalo, N.Y. — The student magazine *Generation* was the target of theft twice in September, leaving editors puzzled as to why.

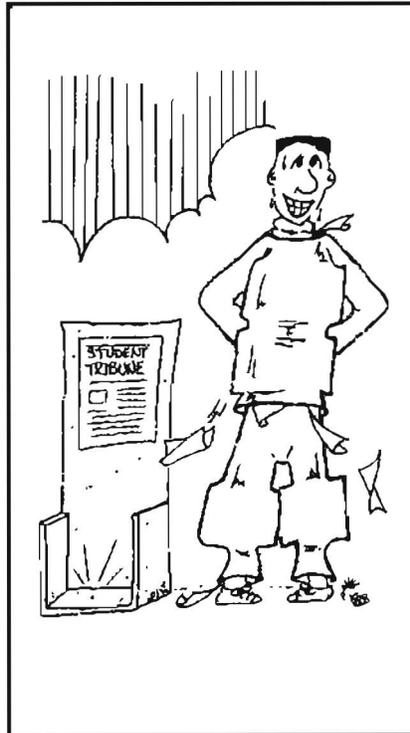
According to editor in chief Jim Helbringer, a total of 6,000 magazines

were confiscated on two separate occasions in September. The magazines are set out in boxes at distribution sites, and, according to Helbringer, the boxes along with the magazines were missing.

"The first time I found [the magazines] in a dumpster outside of where they were taken from," said Helbringer. "But we never found them the second time."

On both occasions, Helbringer said he filed a report with the campus public safety, but they "didn't take it seriously."

Helbringer said he was told public



safety "staked out" the distribution site following the thefts to deter any further thefts, and since then, have had no problems.

- Boise State University; Boise, Idaho — Editors are not sure why 800 copies of the *Arbiter* were stolen out of distribution bins in October at Boise State University.

Editor Patrick Schmaljohn said within 24 hours of distributing 800 copies to two bins, they were uncharacteristically missing.

Schmaljohn said the issue contained loose advertisement inserts, normally causing a lot of debris around distribution bins. However, he said there were no loose copies of the newspaper or

inserts on the floor.

Although Schmaljohn said there were no particularly controversial articles in the stolen copies, he believed the thieves may have been protesting a prior issue which published an editorial disagreeing with an anti-gay initiative on the state ballot, as well as an interview with a homosexual professor.

Schmaljohn said he called the police to determine if any legal action could be taken, but was told because the newspaper says "free" in the masthead, he had no legal grounds to press charges.

Schmaljohn said the masthead now includes a first copy free policy with each additional copy \$1.

- University of Detroit Mercy; Detroit, Mich. — Despite editors' efforts to hold back 1,100 copies of UDM's *Varsity News* in anticipation of problems resulting from a controversial article, 1,400 copies were stolen out of distribution bins on Oct. 19, according to co-editor in chief Rob McMurtrie.

McMurtrie said the lead story, an investigative report on a outbreak of vandalism on campus, cited several sources stating that a campus political group was responsible for the vandalism.

"We have a witness who saw two people taking the papers," said McMurtrie. "It's possible they may be able to identify them."

McMurtrie said although no punitive action is being taken, he has changed the distribution process including sliding newspapers under dormitory doors to prevent them from being stolen again.

"It's ridiculous we even have to go through any of this," said McMurtrie. "Part of the university is campus debate, and for someone to try and restrict that is just ridiculous."

This is the second incident of theft the *Varsity News* has experienced. The first occurred in early February of 1994 when 200 copies were stolen after a story about a chemical spill on campus was published.

- San Jose City College; San Jose, Calif. — The student newspaper, *The City College Times*, experienced an incident of newspaper theft in October. According to adviser Art Carey,

(See *STILL GOING*, page 12))

College Censorship

ill going...

Continued from page 11
Approximately 1,000 copies of the 2,500 total press run were scattered from the racks.

Carey said he believed the theft was in response to an opinion about the campus radio station that contained inaccurate information.

Carey filed a complaint with the campus police, however, they were unresponsive because the newspapers are free. "We need to show people the newspapers do have value even though they're free," said Carey.

The week following the theft, *The City College Times* published an editorial on censorship in an effort to educate the college community on censorship as well as deter any more incidents in the future.

Clark University in Worcester, Mass. — For the staff of the student newspaper, *The Scarlet*, the removal of newspapers from distribution bins is a "biannual tradition," according to editor in chief Mike Fourcher.

Once a year when the board of trustees visits campus, Fourcher said, the newspapers disappear for the weekend and then returned.

"The administration is always concerned about what is in the newspaper the week the board of trustees are here," said Fourcher.

Although Fourcher said there was nothing particularly controversial in *The Scarlet* the week of October when the board was on campus, the newspapers in the main building disappeared.

Fourcher said he questioned Assistant Dean of Students Robert Brown Connors about the missing papers, and the papers were immediately replaced.

Connors said that during major events such as the board of trustees visit, the physical plant staff is ordered to "straighten up the main concourse."

Fourcher asked the building manager if he moved the papers," said Fourcher, "and he said no."

Connors said it is possible that the physical plant could have received a work order from another department to have the papers removed.

Fourcher said he never ordered anyone to move or throw away any newspapers," said Connors.

Clark University of Southwestern Louisiana in Lafayette — Connors do not believe it was coincidence when 100-150 newspapers were found in janitors' trash bins Oct. 14.

The front page of *The Vermilion* included a controversial story on a recently hired professor who had resigned his former position after being charged with embezzlement and racism.

According to managing editor Dwayne Fatherree, the story criticized the university's hiring policy because school officials said they "felt good about our hire."

The professor was hired as the theatre department head at the university and the newspapers were missing from distribution

bins near the theatre and found in the trash bins near the theatre.

Fatherree said the editors are not taking any legal action, but *The Vermilion* did publish several staff editorials regarding the incident to make students more aware.

- Illinois Benedictine College in Lisle — College administrators and security were not much help to the student newspaper when nearly an entire press run of *The Candor* was stolen out of distribution bins in November.

According to Vicki Meier, editor in chief, the newspaper filed a formal complaint with the campus police as well as met with the dean of student affairs to combat the theft, but all were unresponsive.

"No one considered it a very serious issue," said Meier.

Meier said the stolen issue did contain a controversial, negative news story on the student government.

"We have our suspicions of who could have done it," said Meier, "but we can't prove anything."

Meier said she will continue to meet with school administrators to prevent it from happening again. ■

LaGuardia

(Continued from page 5)

Attorneys responded that the *Bridge* had only four months after the meeting, or by July 30, to take legal action under the statute of limitations. Litigation did not begin until August 3, 1994.

They also claimed that the open meetings law does not apply to the college association meetings because they are not considered a "public body," and they do not perform a governmental function.

According to the college, the student activity fees the college association allocates each year never become part of the school's general funds, thereby, not making them "public funds."

The college also maintains even if the open meetings law does apply to the college association, the actions of the meeting should not be null and void because the association did not act in bad faith.

In addition to the allocation of funds, four resolutions were passed at the meeting regarding the *Bridge*. According to the minutes of the March 30, 1994, meeting, "A committee will be formed to revise the *Bridge* governing document, prior to the next *Bridge* Editorial Board Election which is in the Fall 1994. The College Association will develop guidelines aimed at securing an approval mechanism for the *Bridge* governing document. Prof. Sam Amoako (faculty advisor) will be present at future elections to ensure that proper procedures are followed. A copy of the *Bridge* will be requested by the College Association prior to publication."

McGuire said it is possible the case will be settled out of court. ■

East Central

(Continued from page 7)

began when Public Information Director Rebecca Kennedy became the adviser.

"The newspaper is under the Public Information Department," said Miller. "That is a problem right there."

Soon press releases began to take precedence over other news stories, Miller said, and as a result, he quit the following spring.

Censorship has continued for the *Journal*, according to last spring's editor, Jolene Barber.

"On the surface, it appears to be a student-controlled newspaper," said Barber. "But not when it came to controversial stories." She recalled an editorial she wrote that the adviser claimed was factually incorrect.

"I stood by the quotes in my editorial," said Barber, "but I believe she [Kennedy] called the source to get another quote." Ultimately, Kennedy al-

tered the editorial before it went to print without her consent, said Barber.

Kennedy declined to comment.

Harris said Kennedy only suggests ways to approach stories and goes over mistakes students make such as typographical or grammatical errors, but the final say is always left up to Harris.

"I have never seen any administrative control," said Harris. "I have never been told what can or cannot go in."

Hinton said SPJ wrote a letter to the Oklahoma Board of Regents requesting an investigation.

However, according to Hinton, SPJ got involved initially, not because of *Journal* problems, but because of censorship occurring outside of the newspaper.

Mary Bishop, a journalism professor in her ninth year at East Central, teaches a publications practicum course in which students can write for the campus literary magazine, yearbook or newspaper. Bishop monitors their work through the respective publications' advisers

throughout the semester. However, Bishop said when her students approached Kennedy to contribute to the *Journal*, Kennedy said all the beats were covered and there was no space for her students' stories.

As an alternative, Bishop and her students published a four-page publication, *Shades of Gray*, which contained "noncontroversial" articles, according to Bishop. The students distributed 100 copies of the paper and were immediately ordered to stop.

Bishop said she was then told by the school's academic vice president "there would be no more publishing of the magazine."

"I was told I violated a provision of the handbook under 'distribution of advertising and promotional material' in that it must be approved by the administration; but there was no advertising in the publication," said Bishop.

"They won't give up control," said Bishop. Immediately after the publication of *Shades of Gray*, Bishop was denied tenure for the fourth time.

"Administrators have a very different concept of what student freedoms are," said Hinton. "We hope that policies can be formed which make the relationship between administrators and student publications very clear."

Hinton expressed his concerns of the effects of censorship on a much larger scale.

"These campuses are teaching journalism, but the students are not being afforded the right to cover the public body," said Hinton. "When they leave, they will be ill-equipped to get a job." ■

Lawsuit

(Continued from page 6)

Cirillo, Angelilli's attorney, the university waived its immunity by creating a special relationship between the campus police and the university students.

The university's code of conduct states, "When a crime does occur on campus, the campus police are there to investigate the incident and assist the victim(s)."

However, the court disagreed and ruled the university was protected as a state agency under sovereign immunity which limits lawsuits against the government.

According to Angelilli, she experienced nightmares and anxiety as a result of the incident, and had a difficult time getting a job in the field of journalism because of the negative attention the case received.

Angelilli said problems of racism are very rampant throughout the campus, and the attitudes are negative among all races represented at the university. However, she said she and her staff constantly promoted multicultural awareness. ■

KCMU

(Continued from page 8)

changes and the termination of volunteers."

Tom Mara, also named in the law suit, said he felt Knab was justified in the firings.

"We're here to serve an audience," said Mara. "It's not the place for the staff to air their dirty laundry."

Although Zilly ordered the six volunteers reinstated, according to Mara, not all decided to return to their jobs.

However, Mara did say he has not experienced any problems since he has become station manager. ■

NCAA

(Continued from page 8)

because the *Alligator* is a non-profit newspaper.

Ingrassia said he is happy with the decision and has resumed his column "Anthony Digests."

"It just seemed kind of ridiculous that I even had to stop writing," said Ingrassia. ■

Panhandle

(Continued from page 7)

Unlike other stories of dismissed advisers, Murphy's story turned out for the best in his eyes. He is currently a journalism professor at Midland Lutheran College in Fremont, Neb.

"I am at a much better journalism program now where the administration has a much better understanding of press freedoms," said Murphy. "[At Panhandle State] I really had nothing to win by fighting." ■

A Battle WON

A new Pennsylvania law requires public and private schools to release campus police logs

PENNSYLVANIA — After a four-year roller coaster ride full of stops and starts, the Pennsylvania legislature finally passed a law making daily campus police logs open to the public.

Gov. Robert P. Casey signed the legislation in mid-October.

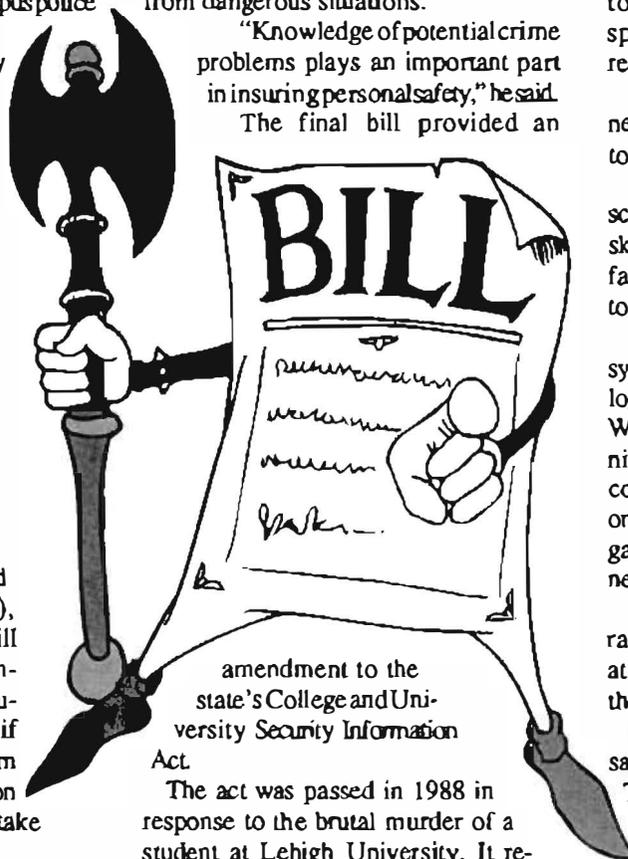
Senate Bill 638 requires campus police at public and private schools to maintain daily, chronological logs with complaints and all reports of crime. The names and addresses of the complainants and victims will not be included in the daily blotter and colleges and universities can charge a reasonable fee for the cost of copying the logs.

The sponsor, Sen. Richard A. Tilghman (R-Bryn Mawr), said, "This information will allow students to protect themselves and avoid risks. Students will be able to see if there are problems with dorm room break-ins or assaults on campus, for example, and take the necessary precautions."

Rep. Tommy Tomlinson (R-Phila-

delphia) who supported the bill in the House said, "This kind of information puts people on alert, and can save them from dangerous situations.

"Knowledge of potential crime problems plays an important part in insuring personal safety," he said. The final bill provided an



amendment to the state's College and University Security Information Act.

The act was passed in 1988 in response to the brutal murder of a student at Lehigh University. It requires, "institutions of higher education

to provide students and employees with information relating to crime statistics and security measures and to provide similar information to prospective students and employees upon request."

Tilghman said the act has a weakness because it only requires schools to prepare an annual report.

"The problem has been that some schools have been providing only sketchy information in an untimely fashion, essentially making it useless to students and parents," Tilghman said.

Similar legislation to the new Pennsylvania law opening campus police logs has passed in Massachusetts, West Virginia, Oklahoma, California, Tennessee and Minnesota, according to Connie Clery of Security on Campus Inc., a Pennsylvania organization that advocates more openness about campus crime.

It was Clery's daughter who was raped and murdered in her dorm room at Lehigh University thus prompting the original campus security act.

Clery lobbied heavily for the passage of both pieces of legislation.

The bill was originally introduced as Senate Bill 1378 in October 1991. It died in November of the following year. ■

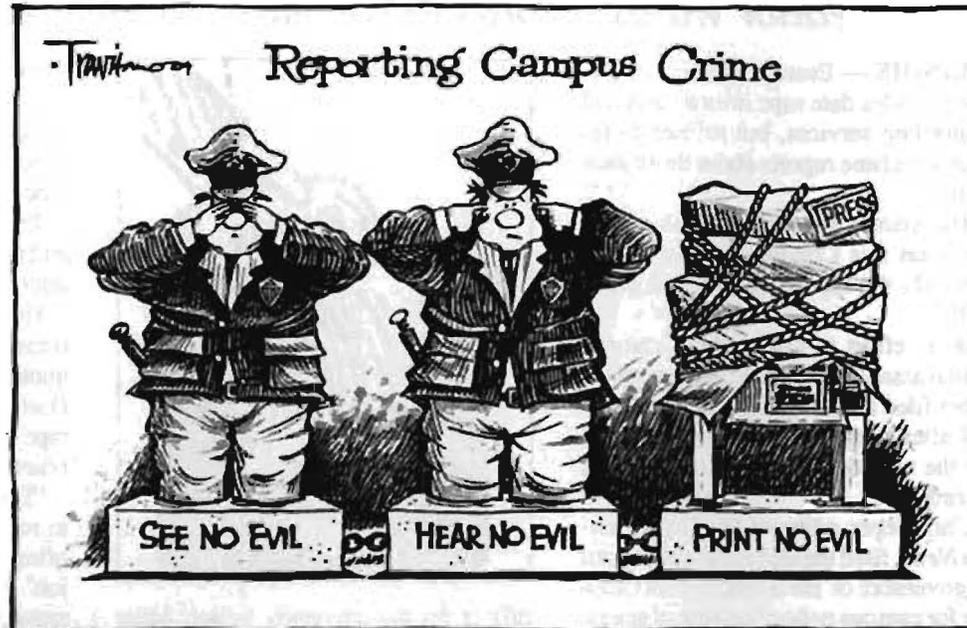
Crime logs released from detention

MISSOURI - After the book *Crime at College: The Student Guide to Personal Safety* ranked Saint Louis University the most dangerous college, the administration was outraged and the editors of the school newspaper feared campus security would restrict the release of crime reports.

The book evaluated schools by the safety of the towns in which they are located.

The editor in chief of *The University News*, William Fronczak, said the weekly newspaper usually gathers crime reports on Wednesday, arranges layout on Thursday and distributes the paper on Friday. On July 15, the week following the *Crime* book's release, however, the paper did not receive any reports.

When the paper had not received the reports by noon on Thursday, they called to inquire about the delay. Fronczak said he was informed because no crimes fell within the six categories re-



quired to be released by the federal Student Right to Know and Campus Security Act there would be no crime reports for the week.

These six categories are murder, rape, robbery, aggravated assault, burglary and motor vehicle theft.

The act also mandates the release of records concerning liquor, drug and weapon

violations where an arrest is made.

Although the department of public safety believed it had no legal obligation to release reports on other criminal reports, the incident made the editors suspicious.

"Whenever someone says they will hold something back it's our job to be concerned," Fronczak said.

Fronczak and news editor for *The University News*, Mathew Hathaway, marched directly to the captain of the department of public safety, Jack Titone, to demand the records.

Gary McDonald, the associate director of public relations for the department, said the records could have been lost in transfer or misplaced and no one contacted the police about not receiving the reports.

Hathaway and Fronczak both contend that Titone said the department was taking heat for the book and long police reports in the paper. Hathaway said police told him reporting on frivolous crimes only added to the length of the police log causing undue anxiety in the community.

The department finally released the records for that week and reports are now hand delivered to the paper. Fronczak, Titone, (See MISSOURI, page 17)

Missouri law could restrict access

MISSOURI — The release of crime reports in all of Missouri is in peril following a law taking effect Aug. 28, 1994.

The measure, tucked inside a bill aimed at helping crime victims, says "investigative reports of all law enforcement agencies are closed records until such time as an arrest is made," according to an Associated Press article.

The language has caused confusion about the definition of "investigative reports" as compared to incident reports which are open records following a Missouri Supreme Court decision.

"I can't believe they didn't define an investigative report. I believe when somebody reports something to us, they want it investigated and that's an investigative report. I don't know how else anyone can interpret that," said Marshall

Police Chief Jim Simmerman.

Mark Willenbrink, president of the Missouri Police Chiefs Association, said he supports providing incident reports to the local media and he doesn't "believe it's the intent of the Legislature to cut back on public safety information," according to the AP article.

All sides are seeking clarification on this area of the statute. ■

Student seeks sexual assault reports

Illinois editor wants records to compare to campus court hearings

ILLINOIS — Eastern Illinois University provides date rape information and counseling services, but refuses to release the crime reports about those incidents.

The crimes transpire behind closed doors on this Charleston campus and currently the reports remain hidden as well.

In an effort to obtain these campus sexual assault reports, the student newspaper filed a lawsuit against the university after it rejected the editor's request for the records under the Illinois open records law.

Chris Seper, editor of *The Daily Eastern News*, filed the suit against the board of governors of the university in October for campus police "reports of sexual assaults and rape cases for the 1993-94 academic year."

According to Illinois open records law, police blotters should be open.

"It's a matter of public record," Seper said. "It's not an issue of campus papers [versus commercial papers]. It's what we're entitled to have."

The crime prevention and juvenile



officer for the university police, Mike Ealy, said reports are released to the newspaper except when it would hinder an ongoing investigation.

Seper initially filed a freedom of information request for the records, but the records custodian denied the request citing privacy exemptions to the law. Seper then appealed to the university President David Jorns

who denied him as well.

Seper contended privacy was not an issue in a letter to Jorns because the paper does not print the names of alleged rape victims.

Jorns refused to comment on the case and referred all questions to the school's attorney, David Stanczak.

University Police Chief Tom Larson refused to comment as well, but was quoted in a series that Seper and *The Daily Eastern News* wrote about date rape on campus and the student judicial board.

"Larson said date rapes are dangerous to report to the media because they are often the result of 'a difference of opinion' and because of the damage the reports can do to both the victim and the person accused of date rape," Seper wrote.

Most students alleging date rape choose to proceed through the student judicial system rather than the courts, thus constructing another barrier to the information. In fact, eight out of the reported nine sexual assault cases in the 1992-93 school year and both cases in 1993-94 were handled by the judicial board, which gave sentences ranging from probation to suspension.

The Daily Eastern News received brief summaries on the outcomes of the judicial board hearings only after they submitted an FOI request.

Seper said he wanted access to the campus crime reports named in the suit to compare the reported incidents to the judicial board sentences.

According to the date rape series, Larson said since the cases are handled by the judicial board and not a criminal court, there is no need to release the records to the public.

Seper and *The Daily Eastern News* also filed suit for "reports completed in connection with the threats made by an Eastern Illinois University employee toward certain school administrators."

Seper's attorney, Christopher Koester admits they have a shakier case with the employee records because the law's privacy exemption may apply. ■

Access attempt arrested in Hawaii

HAWAII — The Hawaii Supreme Court refused to rule on the release of police disciplinary records sought by the local Society of Professional Journalists thus allowing the police union time to lobby the state legislature to change the open records law.

In what should have been a quick decision according to University of Hawaii journalism professor Gerald Kato, the court waited nearly six months before it released the Oct. 14 order to return the case to the trial level.

The state supreme court said the matter was still pending in the circuit court and vital rights may be lost if the names are released prior to a final judgment and subsequent appeal.

The circuit court had granted sum-

mary judgment in the original case mandating the release of the names of four disciplined police officers. Before Police Chief Michael Nakamura could release the names, however, the police officers' union, State of Hawaii Organization for Police Officers, turned the tables and filed suit against Nakamura. The union also filed and was granted a request to withhold the names until the court could hear an appeal.

Jeff Portnoy, who represents the University of Hawaii SPJ chapter, was baffled by the recent supreme court ruling and called it "unbelievable."

"It's pretty mind boggling," he said. "No one knows exactly how the

(See HAWAII, page 17)

Redlands

(Continued from page 7)

utilized, according to Redlands President Larry DeVane.

"Ms. Rupp's strengths lie in developmental English," said DeVane. "So we needed her in the rotation."

Rupp said she was not given a reason why she was removed after she had been unanimously voted to again teach English-Journalism.

"I was told they wanted me to focus on basic sentence grammar and spelling," said Rupp. "And to go from teaching journalism to basic English is a slap in the face."

According to DeVane, *The Journal* is produced as part of a course offered to students each semester. Students who enroll in the course, taught by the adviser, cover the stories and produce the monthly newspaper.

Josh O'Brien, a full time reporter at the local *El Reno Daily Tribune*, replaced Rupp. Both Rupp and Wilcox expressed their doubt in O'Brien's qualifications for the teacher/adviser position because he was unfamiliar with the computer system, paste-up procedures, dark room procedures and the general production of the newspaper in which Rupp was proficient. However, O'Brien said he has two degrees in journalism and ten years experience in

the field. In addition to being a full time reporter for the *Tribune*, O'Brien works in the production department as well.

"I have been constantly having to defend these half-truths coming from a very angry student," said O'Brien.

According to Wilcox, O'Brien told him he viewed himself as the executive editor, and Wilcox, the managing editor.

O'Brien said he told Wilcox that as adviser he would have little to do with the day-to-day production of the newspaper, however, if there was a problem with the reporting not being accurate and fair, he would then step in.

"That is the way it is in the real world," said O'Brien.

Ultimately Wilcox resigned his position as editor and dropped the class.

"I was the only one of five people in the class who knew how to do everything," said Wilcox. "A lot of the staff from last year quit because of problems from last year and that Kelly [Rupp] was no longer adviser."

When the class enrollment dropped to three, according to O'Brien, he felt he did not have enough people to publish a newspaper. Rupp said, however, she previously taught the class with the same amount of students and it was never canceled.

"In fact," said Rupp, "the enrollment soared while I was teaching it."

Rupp was also denied tenure this sum-

mer, she said, because she "didn't submit enough paper work."

Wilcox said some of last year's problems, which he viewed as reasons why staff interest decreased, included difficulty in gaining access to college financial records. Wilcox said he believed because he was trying to expose possible financial abuse at the college, many of the changes were made anticipating students would lose interest and the paper would have to be shut down.

"I'm just really frustrated right now," said Rupp. "The students have a right to a voice." ■

Missouri

(Continued from page 15)

Hathaway, McDonald and Associate Vice President for Public Relations John Kerr, met to discuss the issue following the incident.

All sides said the meeting was profitable and thought the problem was solved, but a misunderstanding required further discussion.

Hathaway said he thought campus security would release all records.

McDonald said they agreed to release all reports except alarm soundings, requests for escorts and what Titone referred to as "minor infractions."

But they did not set a monetary amount for what petty thefts the department would report.

Fronczak and Hathaway said they would rather receive all reports and then choose what to release.

"They [campus security] have a duty to the students who go here to report all crimes," Hathaway said.

McDonald said, "We simply don't tell them everything that happens because it would take a lot of man power and money."

However, he also said "If they [the editors] want the whole report we'll give it to them."

Fronczak said they talked again and the department will now release everything except alarm soundings.

The University is suing the publishers of the *Crime* book to "back off on publication," according to Kerr.

McDonald said the data was skewed because St. Louis reports city crime and other campuses include crime statistics from the entire county. ■

Hawaii

(Continued from page 16)

supreme court did what it did."

Kato also found the decision puzzling. He said the court ducked the issue and he equated the delay to censorship.

With this delay it could take years before the records might be released.

This time will allow the officers' union a chance to change the open records law which was amended in 1993 to specifically include disclosure of disciplinary records of public employees.

"[The union] will begin to take a very active role in politics and do whatever needs to be done to elect our friends into office," said Michael Joy the interim business manager of the union in an article he wrote for *The Honolulu Advertiser*.

He said the time gives the police an opportunity to return to the legislature and state their case.

Lawyers for the union argued in court that the release of the names would violate the officers' right to privacy, harm their families and undermine the union's collective bargaining agreement.

Joy said he believes in "scolding in private and praising in public."

"It is the chief's job to run the police department," Joy said. "[The disclosure of disciplinary records] infringes on that right. Discipline should be within the department not in a public forum."

The case is now pending in circuit court, but Portnoy did make an attempt to obtain the disciplinary records minus the names.

Joy said he had no problem with releasing only the disciplinary information. ■

Education Means *PROTECTION*

In an effort to combat crime on campus, this federal law helps students in the most crucial aspect of crime: prevention

By now, most college journalists have at least heard of the Crime Awareness and Campus Security Act of 1990 (Campus Security Act),¹ a federal law whose stated purpose was to make available more information about criminal activity on America's college campuses. The law sought to achieve this goal primarily by requiring colleges and universities to compile, publish and distribute an annual report that provided information on the number of serious crimes that occurred on their campuses. Campus crime awareness, the law's supporters argued, was the first step toward combating what Congressional findings indicated was a serious and growing problem: an increase in campus crime accompanied by a decrease in the accurate reporting of that crime by school officials,² many of whom, reports indicated, were fearful of the bad publicity — and corresponding decline in enrollment — that

they felt would accompany the release of such information.³

Unfortunately, the effectiveness of the law was hampered both by genuine confusion about what the law required and the continued efforts of some school officials to keep the information secret. In an attempt to clarify some of the law's provisions, the U.S. Department of Education issued guidelines earlier this year.⁴ It is too early to tell whether or not the new guidelines will result in more accurate information and more uniform compliance. Nevertheless, student journalists do themselves a favor by becoming familiar with the law's basic operation and requirements. This short guide should help.

What is the Campus Security Act?

A federal law that, for the first time, requires almost all public and private colleges and institutions of higher learning to collect and report information about crime that occurs on their campuses.

Why is it necessary?

It is necessary because Congress found that campus communities were not being adequately informed about the growing problem of campus crime. Supporters of the law argued that without this knowledge students and others were more likely to become crime victims. One of the law's chief supporters was the group Security on Campus, founded by Howard and Connie Clery, the parents of Jeanne Clery, who, in April 1986, was brutally raped and killed in her dorm room at Lehigh University by a fellow student.

Who must comply with the law?

All post-secondary institutions — public and private — receiving federal financial assistance (for example, institutional research grants, federal work-study assistance or other grants for students and National Direct Student Loans). Virtually every post-secondary institution receives some form of federal financial assistance.

What does the act require?

Colleges and universities are required to publish and distribute each
(See AWARENESS, page 19)

Awareness

(Continued from page 18)

September an annual security report containing: (1) campus security policies and procedures, (2) the law enforcement authority status of security personnel, including their working relationship with state and local police agencies, (3) a description of crime prevention and drug and alcohol abuse programs available to the campus community, (4) a listing of any policies that encourage accurate and prompt reporting of crime to the appropriate police agencies, (5) campus policies regarding law enforcement relating to drug and alcohol use and (6) actual campus crime statistics.

What types of crimes must be included in the statistical report?

Statistics must be maintained for the following crimes and violations: (1) murder, (2) rape or other sex offenses (both forcible and non-forcible), (3) robbery, (4) aggravated assault, (5) burglary, (6) motor vehicle theft and (7) certain hate crimes. Where an arrest is made, a school must also report statistics concerning: (8) liquor law violations, (9) drug abuse violations and (10) weapons possessions.

To insure uniformity, the act requires that schools base their reports on the following definitions, taken primarily from the Federal Bureau of Investigation's National Incident-Based Reporting System:⁵

- 1) **Murder:** the willful killing of one human being by another.
- 2) **Rape:** the carnal knowledge of a person, forcibly and against his or her will or where the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity or age.
- 2b) **Forcible Sex Offense:** any sexual act directed against another person, forcibly or against that person's will or where the victim is incapable of giving consent because of his or her

Supporters of the law argued that without this knowledge students and others were more likely to become victims.

temporary or permanent mental or physical incapacity. Includes forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling.

2c) **Nonforcible sexual offense:** unlawful, nonforcible sexual intercourse. Includes incest and statutory rape.

3) **Robbery:** the taking or attempted taking of anything of value under confrontational circumstances from the control,

custody, or care of another person by threat of force or violence and/or putting the victim in fear of immediate harm.

4) **Aggravated assault:** an unlawful attack by one person upon another wherein the offender uses a weapon or displays it in a threatening manner, or the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

5) **Burglary:** the unlawful entry into a building or other structure with the intent to commit a felony or a theft.

6) **Motor vehicle theft:** the theft of a motor vehicle.

Many student news media organizations and campus safety advocacy groups criticized schools for distorting the true picture of campus crime.

7) **Liquor law violations:** violations of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession or use of alcoholic beverages

8) **Drug abuse violations:** violations of laws prohibiting the production, distribution, and/or use of certain controlled substances and the equipment of devices utilized in their preparation or use.

9) **Weapons possessions:** violations of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

Who must report crimes?

The act requires that local police, campus security personnel and any "official of an institution who has significant responsibility for student and campus activities," (for example, deans, residence hall directors, etc.) report acts of campus crime for inclusion in the annual report.⁶ A school official who "has significant counseling responsibilities" is excluded from this duty.⁷ The school should identify specific individuals in their community who are required to report crimes and inform these people of their responsibilities. Additionally, an institution is required to create a campus security policy stating those individuals or organizations to whom students and employees should report criminal offenses.⁸

Where must crime occur to induce the mandatory reporting requirement?

(See REPORT, page 20)

Report

(Continued from page 19)

This has been one of the more controversial issues raised by the law. Many student news media organizations and campus safety advocacy groups criticized schools for distorting the true picture of campus crime when they failed to report student-related crime, which happened to occur just off-campus, such as in fraternity housing or in a campus bar area. School administrators said that re-

are nevertheless, not in any way "controlled" by the school (such as a favorite off-campus student bar or club or private student housing) probably does not have to be included in the annual report.

What period of time does an "annual report" cover?

The new regulations indicate that the statistical information contained in each report should be based on a calendar year (January 1 - December 31).¹⁰ The September 1994 annual campus security report should have contained at least

requirement is to enable the campus community to protect itself from potential future harm, it can be strongly argued that any significant amount of time that passes between when a crime that could present an ongoing threat occurs and when the public is notified violates the law's intent. Where a "timely report" is not made, reporters should demand that school officials provide an immediate accounting. Violations should be reported to the Department of Education, particularly in instances where additional crimes were committed because of a failure to issue a "timely report."

Finding and reporting accurate information about campus crime is one of the most important responsibilities that the student press owes its readers

quiring such "limitless" reporting was both unfair and difficult to administer and that they were simply following the law as written.

Reporting is required for criminal incidents that occur on "campus," which includes "any building or property owned or controlled by an institution" or by a "student organization recognized by the institution." A report must also be filed when a crime occurs in any space owned by a third party, but "controlled by the institution."⁹ Therefore, research facilities, athletic facilities used by a school (such as a city-owned auditorium or stadium leased for school games), fraternity and sorority houses and other off-campus student housing that may not be owned by the university but which is operated pursuant to a contract with the school or otherwise "controlled" by them, and other school-related premises (for example, a teaching hospital or a banquet hall that is regularly used for school social functions) should all arguably fall within the "campus" definition. Crime that occurs in areas that are frequented primarily by students, but which

the most recent calendar year and two preceding calendar years, where readily available. Starting in September 1995, annual reports will be required to contain statistics for the three preceding calendar years.¹¹

What is the "timely report" requirement?

This requirement imposes an important responsibility on schools. In addition to the annual statistical report, the Campus Security Act requires that schools make "timely reports to the campus community on crimes [from the list above] considered to be a threat to other students and employees that have been reported to the campus security office or the local police department." "Such reports," the law states, "shall be provided to students and employees in a manner that is timely and that will aid in the prevention of similar occurrences."¹² "Timely reports" is not defined by the statute and the Department of Education has stated that the need for such reports must be decided on a case-by-case basis. However, given that the purpose of the

How can I get a copy of my school's report?

The law requires that schools "prepare, publish and distribute" the above security report to all current students and employees. It also requires that schools provide a copy to any school applicant who requests the information. The reports can either be mailed (either through regular or campus mail) or hand-delivered in the form of part of a publication that is distributed to the campus community. The actual reports compiled by schools have taken many forms, from a no-frills mailing to a full-color, tabloid-sized brochure complete with poster-size maps and safety tips. Other schools are reportedly including the required information in existing campus publications or mailings, like school catalogues, student handbooks or tuition bills. If you do not receive a copy you should contact your school's campus security office and request one. Additionally, early each year, the *Chronicle of Higher Education* has published a comprehensive listing of crime statistics gathered from the crime reports compiled by schools across the country.¹³

What are the penalties for non-compliance?

An institution that does not comply with the Campus Security Act risks losing its federal funding. Because almost all schools (public and private) rely heavily on federal funds, this is a very real threat. The U.S. Department of Edu-

(See ACT, page 21)

Act

(Continued from page 20)

cation is responsible for monitoring schools' compliance.

What can you do if your school is not following the required procedure?

The Department of Education asks students, reporters and employees to contact the Inspector General's Office at the Department of Education at (800) 647-8733 if they believe their school is not complying with the Campus Security Act. Persons reporting this lack of compliance should also submit a written request confirming their report, and a request for the findings by the Department of Education.

What about state crime statistics laws?

In addition to the federal Campus Security Act, some states also have enacted their own laws that require schools to compile and release statistical information regarding campus crime.

The advantage to some of these laws is that they require schools to report more information (for example, more or different categories of crime must be reported, crimes from a broader geographic area must be included, more or different types of information must be included in reports) than required by the federal law.

As of the summer of 1994, thirteen states (California,¹⁴ Connecticut,¹⁵ Delaware,¹⁶ Florida,¹⁷ Louisiana,¹⁸ Massachusetts,¹⁹ New York,²⁰ Pennsylvania,²¹ Tennessee,²² Texas,²³ Virginia,²⁴ Washington²⁵ and Wisconsin²⁶) had campus crime statistics legislation.

Unlike the federal law, some of these state laws clearly limit the reporting requirements to public schools; others, however, explicitly include private schools or contain language that would appear to do so (for example, "each institution of higher education.")

Some of the laws require schools to actively distribute the information to students, faculty, etc. Other laws require only that the information be made available upon request.

Finally, some states have made failure

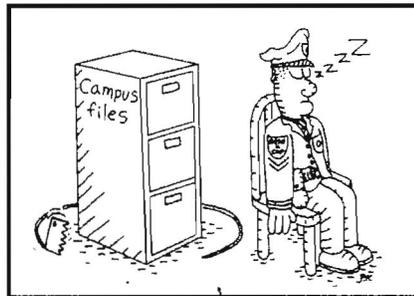
to comply with the law a crime, punishable by fine. Other states have put little "bite" in their respective laws. Students in these states would probably be limited to obtaining a court order compelling a school to release the information.

The Campus Security Act is just the first step.

While being able to obtain an annual statistical report about crime that occurs on your campus is useful, it is by no means a substitute for regular and comprehensive crime reporting. In addition to the Crime Awareness and Campus Security Act, there are other freedom of information laws with which student journalists should become familiar.

For public schools, a thorough understanding of a state open records and open meetings law is essential. Other ideas for improving your newspaper's coverage of crime on campus include:

- (1) assigning an experienced reporter



or editor to the campus crime beat who will make regular visits to the police office;

- (2) asking your law enforcement personnel what issues they believe the campus community needs to be more informed and educated about to increase their own safety and prevent occurrences;

(3) requesting permission to accompany a campus officer on their rounds to get a better idea about their job, concerns, campus crime problems and specific problem areas; and

- (4) starting a regular "crime on campus" column or page.

Finding and reporting accurate information about campus crime is one of the

most important responsibilities that the student press owes its readers. As a student journalist, knowing and using the law is not only important - it's your duty.

¹ 20 U.S.C. Sec. 1092(f).

² See 104 Stat. 2384, Sec. 202, finding that while "crime, particularly violent crime, on some college campuses has steadily risen in recent years...out of 8,000 post-secondary institutions participating in Federal student aid programs, only 352 colleges and universities voluntarily provide crime statistics...[while] other institutions report data indirectly, through local police agencies or States, in a manner that does not permit campus statistics to be separated."

³ See, e.g., Randolph, E., "Students Say Colleges Use Law to Hide Bad News," *The Washington Post*, Nov. 30, 1989, p. A22; O'Reilly, D., "Few Colleges File Reports; Fear of Bad Publicity Discourages Disclosure," *The Philadelphia Inquirer*, Oct. 18, 1990, p. 1E.

⁴ 59 Fed. Reg. 22,314 (April 29, 1994) (to be codified at 34 C.F.R. Part 668).

⁵ U.S. Dept. of Justice, Federal Bureau of Investigation, "The Redesigned UCR Program," November 1988.

⁶ 59 Fed. Reg. 22,320.

⁷ *Id.*

⁸ 20 U.S.C. Sec. 1092(f)(1)(A).

⁹ 59 Fed. Reg. 22,320.

¹⁰ *Id.* at 22,319 - 22,320.

¹¹ *Id.*

¹² 20 U.S.C. 1092(f)(3).

¹³ See, e.g., *Chronicle of Higher Education*, February 2, 1994, & January 20, 1993.

¹⁴ Calif. Ed. Code §§ 67380-67382.

¹⁵ Conn. Gen. Stat. Ann. §§ 10a-55 - 10a-55c.

¹⁶ Del. Code Ann. tit. 14, § 9003-05.

¹⁷ Fla. Stat. Ann. § 240.2683, § 240.3815.

¹⁸ La. Rev. Stat. Ann. § 17:3351C.

¹⁹ Mass. Ann. Laws ch. 22, § 16.

²⁰ N.Y. Education Law § 6450.

²¹ Pa. Stat. Ann. tit. 24, §§ 2502-1 - 2502-5.

²² Tenn. Code Ann. §§ 49-7-2203 - 49-7-2205.

²³ Texas Education Code Ann. § 51.216.

²⁴ Va. Code Ann. § 23-9.1:1.

²⁵ Wash. Rev. Code Ann. § 28B.10.569.

²⁶ Wis. Stat. Ann. § 36.11(22).

Public relations tools

Although the high school press is much more than a PR tool for schools, principals and superintendents suggest that projecting a positive image is its primary function

According to the recent New Jersey Supreme Court ruling in *Desilets v. Clearview Regional Board of Education*, the First Amendment requires school administrators to provide reasonable justification for their censorship of student publications, even after the *Hazelwood* decision. (See *CHIPPING*, page 23.)

Although this decision is only binding in the state of New Jersey, it still sends a message to school officials that they cannot censor at will to protect their reputations or the image of the school in the community.

Marc Abrams, an attorney and member of the Student Press Law Center's board of directors who also serves on a school board in Portland, Ore., said school administrators have viewed student newspapers as a public relations device for more than 20 years. "It's our job to disabuse that notion," he said.

In Mandan High School in North

Dakota, for example, the principal referred to the student publication as a public relations tool for the community whereas the adviser saw the newspaper as clearly a student publication for the students. (See *ROLE*, page 24.)

In Texas, meanwhile, an adviser said the administrators, who initiated prior review following an article on homecoming being scheduled on the same day as Yom Kippur, object to anything that makes them look bad. (See *PRIOR*, page 27.)

Abrams said it is the nature of anyone in power to want to control his or her environment. But, he said administrators should stand aside and only confront the consequences of an unfettered press.

Gwendolyn Gregory, the deputy general counsel for the National School Boards Association, said the role of the paper should be determined by each local school district and that it may vary with the temper of the times.

Rulings such as *Desilets*, however,

advise administrators to take an extra step back and reconsider their legal role in connection to the student press.

Exemplifying this position, a North Carolina high school reached an out of court settlement in a prior review case involving an underground publication. In the settlement school officials agreed to repeal school board policies that mandated students obtain the principal's approval of virtually any written material. (See *LAW-SUIT*, page 25.)

The role of the school paper and the battle against censorship will continue to evolve as the political tides ebb and flow. Even though legislatures nationwide are experiencing an influx of Republicans, Abrams recommends plugging state legislation, which has more often been introduced by Democrats, as another way to combat censorship and administrative control. (See *STATE*, page 25.) ■



Chipping away at *Hazelwood*

The New Jersey Supreme Court rules that the First Amendment prohibits a school from censoring reviews for R-rated movies

NEW JERSEY — In the first student publication censorship case to reach a state's highest court following the 1988 *Hazelwood School District v. Kuhlmeier* decision, the New Jersey Supreme Court ruled unanimously in *Desilets v. Clearview Regional Board of Education*, 647 A.2d 150 (N.J. 1994), that a junior high school reporter's right to review R-rated films was protected by the First Amendment.

The student's attorney, William Buckman, said this case established "the

ground floor of *Hazelwood*." Administrators still must provide a reasonable justification for censoring a student publication, the court said in interpreting the decision.

"It puts *Hazelwood* back in the column of having some substance," Buckman said.

Hazelwood gives school administrators control over the content of student speech in many school-sponsored activities so long as the censorship is reasonably related to legitimate educational concerns.

Brien Desilets started the controversy in 1989 by reviewing the R-rated movies "Rainman" and "Mississippi Burning" for his student paper, the *Pioneer Press*.

Although principal Charles Bishop did not object to the content of the articles themselves, he objected to the subject matter and cut the movie synopses without consulting Desilets or the newspaper adviser.

In contrast to the subject matter in question in *Hazelwood*, the New Jersey Supreme Court agreed with the appellate court that, "the R-rated movie reviews in this case do not appear to raise educational concerns that call for the kinds of editorial control exemplified by the Supreme Court in *Hazelwood*."

The reviews recommended the films, but contained no quotes or profanities.

Even though the court reached a unanimous decision in *Desilets*, it produced more questions than answers in a case that could have cleared up some of the *Hazelwood* confusion.

One question involves the role school policies might play in showing that school officials have a reasonable justification for their censorship. The court called Clearview's policy "vague, undefined and speculative." Furthermore it said, "how any 'policy' was applied to the student's R-rated movie reviews remains unclear."

The counsel for Clearview, Robert Muccilli, asked how schools could develop such a policy covering so many factors and how strong the relationship between speech restriction and educational concerns would have to be to allow censorship in the future.

The court went to great lengths to point out the difficulty in determining what kind of policy would comply with
(See *DESILETS*, page 26)

Schindler's List viewing forbidden

WISCONSIN — While Brien Desilets was suing his New Jersey school district for the right to review an R-rated film, 16-year-old Benjamin Borger filed suit against his Wisconsin school district for the right to view an R-rated film.

Borger, with the help of his father, Darrell Borger, issuing the Kenosha Unified School District for the right to view the critically acclaimed Holocaust movie, *Schindler's List*, for a social studies class.

The social studies department of the Mary D. Bradford High School requested permission from the school board last February to bus the students to a special showing of the film.

The students would need their parents' permission, two dollars plus bus fare. The viewing would have been voluntary with no points lost for non-attendance.

The students were denied the opportunity, however, because the Kenosha school board policies state,

"No films having a rating of R, N17 (sic), or X shall be shown to students."

The American Civil Liberties Union of Wisconsin has expressed concern over this policy and the complaint submitted by Terry Rose calls the policy, "overbroad, vague, indefinite and contrary to the First and Fourteenth Amendments to the United States Constitution."

Borger is not alone in his plight. Hundreds of students from his Bradford High School signed petitions asking the school board to reconsider its decision.

The executive director of the Wisconsin ACLU, Christopher Ahmuty, strongly supports these students in their endeavors and spoke out against the school board's decision and the existing policy.

Ahmuty said the school district should not use the movie rating system to abrogate their responsibility to uphold the Constitution.

"This case clearly shows the ri-
(See *SCHINDLER*, page 25)

Fighting back:

Students at a Troy high school vow to keep going until they get their newspaper printed

ALABAMA — Jason Peel's experience at the national touring Lollapalooza Concert became more memorable when he chose to make it the subject of his first feature story for the student newspaper, the *Trojan Myths*, at Charles Henderson High School in Troy.

When his article was returned to him, the comments read "Who cares?", "Impertinent!?" and "After the fact?!" The publications review board "recommended removal" of the article because of its reference to alcohol consumption and nudity.

"[The article] was an observation of what went on at the concert; what I saw," said Peel. "I did not try to purposely offend anyone. I did not try to push the limits of free speech."

Peel's was only one of many articles censored at the public high school, according to faculty adviser Robert Lewis.

(See TROY, page 26)



Role of high school newspaper debated

NORTH DAKOTA — Is a high school newspaper published for the students or the community? The journalism adviser and the principal at a high school in North Dakota conflict on the answer to this question.

"It's a student newspaper, not a school newspaper," said Scott Winter, adviser for the Mandan High School *Courier*.

"It's a public relations feature. It's a public relations tool in the community," said Dale Ekstrom, principal of Mandan High School.

Vice Principal Dan Furaus, meanwhile, fell somewhere between the opposing views.

"The function of the paper is to enhance writing skills, to develop some understanding of the journalism process

and journalistic responsibility and [to teach] ethical neutrality," Furaus said.

However, Furaus also said the paper was a reflection of the school.

Regardless of the function of the paper, co-editor Nancy Fleischer claims the staff is

being censored.

She cited a quote from a teacher with Lou Gherig's disease that the principal asked her to change last year. She said Ekstrom made them change "I know I look like hell, but I feel better," to "I know I look bad."

Ekstrom had no comment on this incident.

Fleischer said they "had to change the quote."

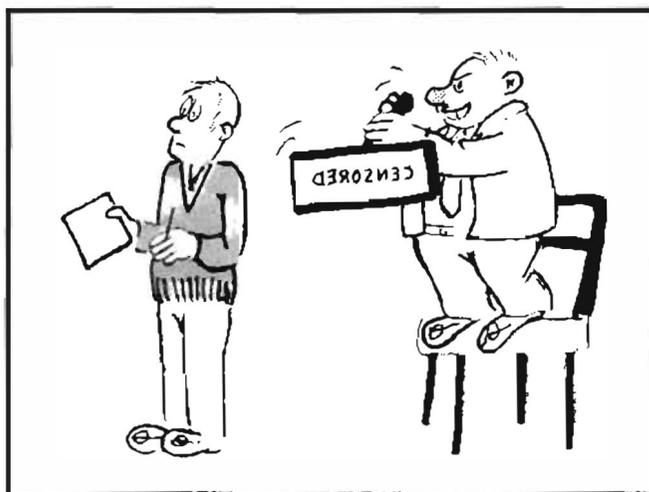
She also cited other cases of censorship involving quotes, headlines and columns and said the censorship has been pretty broad.

Ekstrom said students in journalism need guidance. He said he does not censor and if he wanted to be completely autocratic he would ask the reporters to pull articles.

Ekstrom said he does not ask the reporters to pull stories but he does try to avoid "any big brush fires in the community."

Winter admits he feels pressure from the community of approximately 16,000 residents.

(See ROLE, page 25)



Lawsuit ends in settlement

Administration agrees to no more prior review

NORTH CAROLINA — Prior review of independent student publications has ended for a North Carolina high school according to Jon Sasser, attorney for students of Enloe High School in Raleigh.

Student editors for the *Vanguard*, an independent literary magazine distributed at the school, filed suit against the school in May after their publication was subjected to prior review by school officials.

The tension began following the distribution of a controversial flier, unrelated to the *Vanguard*. The "Enloe Six" who had distributed the flier were suspended but their suspensions were later reversed.

Following these events, the *Vanguard* faced demands of prior review when the principal, Bobby Allen, found a series of "your mama" jokes ~~distasteful~~.

The jokes were submitted by the president of Enloe's African American Cultures Club as part of a reverse discrimination article.

Allen then implemented the 1992 Wake County School Board policy which read, "Students wishing to distribute any publication on campus must first submit the publication to the principal for review."

The students decided to take the issue

to court when the allotted time for administrative review was prolonged and deadlines were getting pushed back.

Although students and administrators reached a settlement outside of court, Sasser cited the outcome as a major victory.

Sasser said he would have preferred a court decision, but views the results as a more practical victory.

In the settlement, the Wake County School Board agreed to repeal for 12 months the vague and controversial section of its policies pertaining to prior review of non-school sponsored publications.

The students had claimed that this section violated the First Amendment as well as a section of the North Carolina Constitution.

Following this 12 month period, Wake County school employees must notify Sasser before introducing any similar regulations.

The school officials did not admit to any illegal practice in the settlement.

Allen was unavailable for comment, but his secretary, who wished to remain unnamed, said, "he will follow whatever is in policy and procedure and if a question arises he will refer to a higher authority." ■

State free speech legislation grows

State legislators and scholastic press associations continue to battle for free speech legislation to counteract the 1988 *Hazelwood* decision, even in states where bills have failed before.

In Oregon, for example, Rep. George Eighmey (D-Portland) plans to introduce a bill in January requiring school boards to adopt student freedom of expression policies. The bill declares that students have the right to exercise freedom of speech and the press, while prescribing some limitations on these rights. Rep. Carl Hosticka (D-Eugene), introduced a similar bill that died in 1989.

Portland attorney and SPLC board member Marc Abrams is coordinating support for the bill.

Rep. Joan Bray (D-University City) and Sen. Harry Wiggins (D-Kansas City) will make a concerted effort by both introducing freedom of expression bills in the Missouri legislature. The Missouri Journalism Educators Association drafted the bill to nullify *Hazelwood*, according to Bill Hankins, a member of the Freedom of Expression Committee. Hankins said he expects to prefile the bill in December. Bray has sponsored similar legislation before.

In Arkansas, Bill Downs of the Arkansas High School Press Association has worked to generate support for free press legislation. He said supporters have gained approval from several press associations, but they are seeking endorsements from education associations as well.

A student journalism bill that remained stagnant in Illinois last year will be refiled in January or February for a March legislative session according to Mary Dixon of the Illinois American Civil Liberties Union.

(See LAW, page 27)

Role

(Continued from page 24)

"I have to be very careful," he said. "It's a very conservative school district."

Winter, who was a professional journalist for five years, said the award-winning publication shied away from certain topics last year for fear of censorship.

He said legal action would be a last resort, but he has not ruled it out.

"This year would be the one to take the problem public because the kids are so good," Winter said. ■

Schindler

(Continued from page 23)

dicrous results that can occur when districts censor materials on arbitrary grounds unrelated to professional educational judgments," Ahmuty said.

In a reply for the Kenosha Unified School District dated Oct. 19, Kathryn West justified the constitutionality of the school board decision and said the plaintiffs failed to support their assertions. The defendants then moved for dismissal of the case. ■

Desilets

(Continued from page 23)

Hazelwood. It said the "inherent complexity" surrounding the issue suggested that the "educational legitimacy of a school policy governing [student expression] should, if possible, first be considered and determined by the administrative agency charged with regulating public education," specifically the State Commissioner of Education.

Another question the case raised dealt with the use of state constitutions as a censorship shield.

The trial court said the student's rights were violated under the state constitution which provided more protection

than the First Amendment.

The appellate and supreme courts did not disagree with that opinion, however, they simply refused to rule on it.

A third question concerned the permissibility of censorship by subject rather than content. Subject refers to what is written about whereas content refers to how it is written.

The appellate court separated these two issues and said the Clearview administration had censored for subject rather than content, which *Hazelwood* did not allow.

"The point of the censorship was not to address stylistic deficiencies or the words chosen by the writer to convey his information; it was to suppress the idea

itself," the appellate court wrote.

The supreme court, however, disagreed with the appellate court and said *Hazelwood* did not make such a distinction between subject and content.

Although the decision left some gray areas for student journalists, it was a victory under *Hazelwood* nonetheless.

"It's a mixed bag," Buckman said, referring to the decision.

This reaction appears to be the consensus.

"I'm still sorting it out myself," the school's attorney Robert Muccilli said. "There are a lot of questions about the decision."

Muccilli said they have not determined whether they will ask the U.S. Supreme Court to hear the case. ■

Troy

(Continued from page 24)

During his first year as faculty adviser six years ago, Lewis said a group of students purchased advertising space and placed an ad advocating the legalization of marijuana.

"Under *Hazelwood*, I felt the ad was okay to publish because it was not advocating anything illegal," said Lewis. "Just the legalization of something that is now illegal."

However, as a result of the ad, Lewis said the school superintendent asked principal R. Lavon Cain to review the ad prior to print.

"Mr. Cain would draw my attention to things he took issue with," said Lewis, "but he would, nonetheless, approve the ad."

However, Lewis said there has been a history of "killing stories" on occasion when they were particularly controversial or had a negative slant.

Those articles censored included a commentary on the peculiar "mosh-pits" at a Nirvana concert, and an in-depth news article on genetic engineering.

As a result, Lewis and the newspaper staff proposed a "no censorship" policy to school officials this summer, and in response, the school created an official publications review board made up of

librarian Deborah Huggins, English teacher Lisa Yawn, a teacher representing a minority group, the student gov-

ernment president, and an additional student. The board was allowed to censor material that did not meet guidelines similar to those defined by the Supreme Court in the case of *Hazelwood School District v. Kuhlmeier*. Despite the fact that *Hazelwood* only allows high school administrators to censor in cases where legitimate educational concerns exist, Henderson school officials have adopted their own interpretation as to what is and is not educational for students.

Also included in the guidelines of the review board is an appeals process the students can pursue if they choose to protest the removal of an article, which they did in the case of Peel's article. But when the students received no response to their appeal from the administration, they planned to go to the printer the following week, with Peel's article that was "recommended for removal."

Among the media attention the school received in reference to the charges of censorship has been from the Nashville, Tenn. office of the Freedom Forum foundation that supports journalism education, media studies and press freedom.

In its new PBS program "Freedom Speaks," the Freedom Forum First Amendment Center featured Peel and his school newspaper as one of the many cases of administrative control of the student press.

"I feel journalism in high school doesn't exist anymore," said Peel. "At least not at my high school."

While considering legal action, the students began work on their second issue. Among stories for the second issue was a news story reporting the censorship of the first issue. According to Peel, despite the editors' anticipation of resistance from the review committee, they submitted the second edition to the board for review. The board censored it as well.

"They [the board] said that anything that had a negative slant could be censored," said Peel. "I asked Mr. Cain if that meant they could censor an article just because they did not like it, and he said yes."

Cain, Huggins and Yawn all refused to comment.

Sticky Calhoun, attorney for Charles Henderson High School, did not return calls from the *Report* for comment.

"The administration is only concerned about the image of the school," said Lewis, "and they are the ones hurting it the most."

In November, the Troy City School Board voted to order the publication of the *Trojan Myths*. However, the criteria with which it will be published remains in question, according to *Myths* lawyer Boyd Campbell.

Peel said he plans to pursue the issue until "I get it printed."

"The students are the journalists," said Lewis. "They are getting a lesson about journalism that cannot be taught in the classroom." ■

Prior review instituted after Yom Kippur article

TEXAS — When then co-editor of the Naaman Forest High *Timberline* Januari Fox wrote an article on the 1993 homecoming being scheduled on the same day as the holiest day in the Jewish calendar, Yom Kippur, she received a harsh penalty for her investigative skills and cultural sensitivity.

Instead of praise, the Garland principal slapped the paper with a strict prior review policy.

If prior review existed at all before the article "Waiting on the Sideline," it was of a different nature according to Julie Lyons, a reporter for the *Dallas Observer* who wrote an article on the situation.

The principal, George Lyons, said the administration always reviewed the paper, even before the article.

The journalism adviser, Teri Echols, said the story set things into motion and any story that does not go with school policies is now censored.

"Last year it was ridiculous," Echols said.

She referred to an April issue where the administration asked her to pull almost an entire page of editorials.

Former *Timberline* editorials editor Michelle Mann said assistant principal Susie Fegraeus personally told her to remove the three articles including an editorial about the disparities in funding between boys' and girls' athletics at the school and an opinion piece outlining a student's objection to medical tests with human fetal tissue, according to an *Observer* article.

Fegraeus said she has never asked the *Timberline* not to run something. "It's just a suggestion," she said.

Lyons said, "We review and make suggestions and that's about it."

But what the administration describes as suggestions, the

students interpret differently.

This year's co-editor Lauren Robinson said the administration claims they are just making suggestions, but "when they say 'pull' we pull."

Bobby Hawthorne director of the Texas Interscholastic League Press Conference, said the items being censored were not libelous, slanderous or objectionable. "I never quite understood the problem," he said.

Currently the four assistant principals and the principal split up the broadsheets for the newspaper and take them home over the weekend for review.

Assistant principal Steve Whiffen said he looks for anything rude or inflammatory to a student or any potentially libelous material. He said review is absolutely necessary to avoid liability, even though he admits there have been no problems thus far.

Echols said the students know they are being cheated. They have two boxes for the broadsheets, she said, one labeled "adviser" and one labeled "censors."

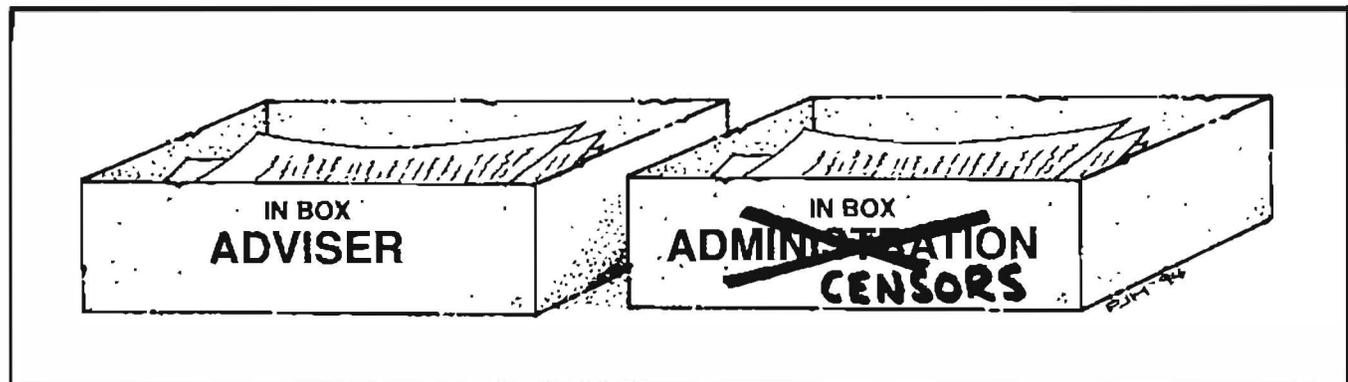
Echols now hand delivers each issue to the administration prior to publication.

Fegraeus said she feels she is doing Echols a favor by reviewing the paper. "We're asked to edit," she said. "We don't seek it out."

However, Echols said, "The administration would be very upset if I stopped showing them the paper."

The storm appears to have calmed since the last school year when the "Sidelines" article ran.

Robinson said there have not been any major problems this year, but the first two issues were pretty non-controversial. But she said after being censored they think twice before considering writing a story. ■



Law

(Continued from page 25)

Barbara Crowshaw, a journalism adviser, said Rep. Millie Flandro (D-Pocatello) plans to reintroduce legislation next year in Idaho. Crowshaw said she thinks

they have bi-partisan support, but, plans for legislation were put on hold while Flandro sought and won reelection.

The Nebraska Education Association met in November to set an agenda for the upcoming legislature. Donna Berka said if free press legis-

lation is on the agenda then a bill will probably be drafted in January.

The South Carolina Scholastic Press Association also plans to push for legislation.

Taking an alternate approach, Fern Valentine, a retired journalism ad-

viser, described proposed education reform in Washington which may have the same effects as free speech legislation.

They hope to have the state adopt curricular requirements that teach student press freedom. ■

Photographs to be viewed as possible evidence

Appellate court rules that college reporter must testify as witness to an assault

MINNESOTA — A Minnesota trial court ruled in October that a college newspaper's unpublished photographs will be viewed by a judge to determine whether they must be submitted as evidence in an assault trial.

Pamela Louwagie, editor of the *Minnesota Daily* at the University of Minnesota, was subpoenaed to relinquish unpublished photographs taken at a rally where an alleged assault occurred between the Progressive Students Organization and alleged Nazis.

A confrontation occurred between rally participants and alleged Nazis, resulting in the arrest of one student who was charged with two counts of felony assault for allegedly striking a supposed Nazi.

Although the district court ruled Louwagie did not have to turn over the photographs, in reconsideration, the judge ruled the photographs would be viewed by the judge. The

decision is currently being appealed.

Daily reporter Jesse Rosen, who was covering the rally for the newspaper, was also subpoenaed to testify as a witness at the assault trial.

In November, the Minnesota appellate court rejected an attempt by the *Daily* to quash the subpoena requiring Rosen to testify.

Because Rosen gave an eyewitness account of the event to the police nearly one month later, a trial court initially ruled that he waived his reporter's privilege rights.

However, *Daily* attorney Marshall Tanick in an oral argument in October said because a prosecution case was not started at the time Rosen spoke to police, he did not waive his rights.

Tanick also said Rosen is protected by the Minnesota shield law that protects journalists from testifying about incidents they have reported on. ■

Editors agree to release Halloween photos after negotiations

ILLINOIS — Southern Illinois University in Carbondale agreed in November to release photographs and videotapes to help local police uncover the instigators of a Halloween street party turned melee.

The Carbondale police delivered subpoenas to six media organizations for photos and videotape shot the evenings of Oct. 28 and Oct. 29 and the early morning of Oct. 30. The police hope to discover the marauders who caused the riot at approximately 11 p.m. on Oct. 29 when about 2,000 revelers rampaged down the streets overturning two cars before the police had to use Mace and night sticks to disburse them.

In addition to the school newspaper, the *Daily Egyptian*, and television station, WSIU-TV, police delivered subpoenas to *The Southern Illinoian*, WSIL-TV, WPSD-TV and KFVS-TV. All of the commercial media complied with the subpoenas but the student media held out until the recent settlement.

The Southern Illinoian handed over color photos while KFVS-TV and WPSD-TV turned over copies of aired footage and WSIL-TV gave

copies of both aired and raw tape, according to a Nov. 9 Associated Press article.

"Our position is that everything we turned over was a matter of public record and any viewer could've seen it off our air," said Mike Beecher, news director of KFVS-TV in Cape Girardeau, according to the article.

The WSIL-TV news director Don Brown said, "Part of the reason we choose to go ahead and give them what they asked for was that we didn't have any video of the incident. So it didn't make any difference to us."

And Richard Johnston, publisher of *The Southern Illinoian*, said, "Editorially we supported the efforts of the city to keep the peace that weekend. We felt it was only consistent we be cooperative in their investigative work."

The student media, however, refused to hand over the subpoenaed materials and sought legal representation to fight the issue.

Walter Jaehnig, director of SIUC's school of journalism and fiscal officer for the school publication, said in an *Egyptian* article that "the students who work at the *Daily Egyptian* are hired to produce news, not evidence for legal

proceedings."

He also said, "If government at this level is allowed to infringe on that freedom [of the press] in the case of this, an incident which, while admittedly serious, did not involve the loss of life, where is the stopping point?"

Although Jaehnig verbalized these views and requested support, the school reached an agreement with the department which he called an "amicable arrangement."

According to a Nov. 18 article in the *Daily Egyptian*, the agreement allows the police to submit a list outlining the crimes it is investigating and the two media outlets will then review their materials for possible matches.

The settlement forces the police to be more specific in their request making the subpoena less broad, one of Jaehnig's original complaints.

Jackson county state's attorney who represented the police, Mike Wepsiec, said, "In a compromise, everybody gives up a little, everybody takes a little. The resolution of this is in the best interests of everyone concerned." ■

Philadelphia adviser settles out of court

Community college newspaper staff suffers most after adviser is removed

PENNSYLVANIA — Among the many controversies surrounding the student newspaper at the Community College of Philadelphia, a lawsuit that resulted from the dismissal of the adviser was settled out of court in October.

Former adviser Donald Weinberg was fired as adviser of the *Vanguard* last June because of typographical, spelling and grammatical errors in the newspaper, according to school officials. However, Weinberg said previously he and his students believed his dismissal was in direct response to the paper's aggressive reporting efforts.

The newspaper has been fighting for access to campus crime records for several years now and that issue is currently in litigation.

Weinberg said he sued on behalf of the newspaper staff as a result of his dismissal, but after meeting with the new staff of the *Vanguard*, Weinberg said he chose to settle out of court because the staff considered the settlement terms a "good deal."

Although Weinberg was not reinstated as adviser, the college agreed to accept an interim adviser who was chosen by the newspaper staff but previously had been rejected by the administration. The college also

agreed to purchase equipment and software for the paper they had refused in the past.

Most important to Weinberg is the requirement that a committee be formed made up of himself, the vice president for student affairs and one additional person to create the governing rules of the newspaper.

According to Weinberg, the committee will create a process by which censorship of the newspaper will never oc-

the students. The college has plenty of public relations organs in which to get their information out. That is not what the newspaper is for."

Weinberg also noted that if at any time the school does not comply with the terms of the settlement, the litigation will continue against the college.

The *Vanguard* had published only one issue for the school year as of Nov. 8, and Weinberg said that is

"The college has learned a great deal about the power of the student press.... It is a student newspaper, with student editors, run by and for the students."

Donald Weinberg
former *Vanguard* adviser

cur again. The college also agreed to ban from the committee the four professors and one dean who have attempted to censor the newspaper in the past.

Weinberg said although the settlement is not a complete victory, it is a substantial one.

"The college has learned a great deal about the power of the student press," said Weinberg. "It is a student newspaper, with student editors, run by and for

because of all of the controversy.

"This has resulted in a newspaper that doesn't function," said Weinberg. "My removal has made the staff afraid to report news for fear of retaliation by the faculty."

In the only issue the *Vanguard* has published, Weinberg said it showed weakness in its coverage.

"They are sticking to the 'safe news,'" said Weinberg. ■

Teacher removed as adviser after 14-year tenure

NEW YORK — The Clarkstown School Board says its decision not to rehire Cris Golde as the high school newspaper adviser was a personnel matter. Golde attributes the dismissal to a controversial affirmative action article published the previous school year.

School Board President Alan Katz and Vice President Steven Schwartz said

the school board was unanimous in its decision not to resubmit Golde's name for the position he held for the past 14 years.

Schwartz emphasized, "It would be wrong for people to think the decision was made because of one article. The decision was made because of a series of observations board members have made over a period of time. It was not a response to a particular

article."

Katz also described the decision as a personnel matter about which he could not disclose details.

Golde said he has had only one problem with the school board in his 14 years as adviser to the Clarkstown North High School newspaper, *The Ram's Horn*. In his third year as adviser Golde said there were a couple of board members who wanted him fired,

but only one participates on the board today.

Golde said he has always received positive evaluations both as a teacher and an adviser.

Principal Daniel Nicholson supported this statement saying he has recommended Golde all ten years he has served as principal. He said Golde received only one nega-

(See GOLDE, page 36)

The right to know and report

Ohio Supreme Court ruled tenure records are open

OHIO — The Ohio Supreme Court ruled last August that promotion and tenure records maintained by a state-supported institution of higher education are public records according to Ohio's open records law.

The court ordered the release of personnel records sought by William Calvin James, an assistant professor in the department of geological sciences at Ohio State University in Columbus.

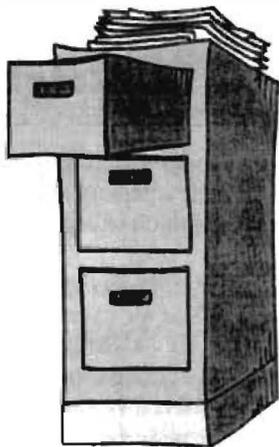
After James was denied tenure in early 1994, he sought access to and copies of several tenure and promotion files maintained by the university in various colleges and departmental offices.

James Garland, dean of the college of math and physical sciences, allowed James to view only limited portions of his own file.

The university argued

that the evaluator in tenure and promotion considerations was a source to whom confidentiality had been promised. The court rejected this argument, however, because the section of the law the university cited exempted only "confidential law enforcement investigatory

(See OSU, page 31)



Interviews of officials are public under state law

NEVADA — All interviews for Chancellor of the University and Community College System of Nevada must be open to the public following an August district court decision declaring the position a public office covered by the state's open meetings law.

The law prevents a public body from holding a closed meeting for "the discussion of the appointment of any person to public office or as a member of a public body."

The chancellor search took an interesting turn last year when the state attorney general, Frankie Sue Del Papa, submitted her name for the office, after declaring the interview process should be open.

Shelley Berkley, a member of the board of regents and the plaintiff in the case, said she felt the process was compromised by the situation because Del Papa would have benefited by having it open.

"The minute [Del Papa]

submitted her name it became a political hot potato," Berkley said.

Although Berkley argued for closing the meetings in this particular selection, she said throughout her political career she has been an advocate for open meetings and government.

"I will never be a party to a closed meeting again," she said.

Evan Wallach, the attorney for the Nevada Press Association who originally asked the state attorney general's office to decide whether the interviews should be public, questioned the candidate who would want a closed selection process.

He quoted the Declaration of Independence and said the only legitimate consent for a public officer is informed consent.

"If [candidates] are that concerned about closed (See NEVADA, page 33)

Editor threatened with honor code punishment

Virginia's Cavalier Daily reports on controversial judicial hearing

VIRGINIA — *The Cavalier Daily* editor in chief, David Hanlin, knew the student body would be interested in a pending case involving a student expelled for allegedly cheating on a mid-term exam in computer science.

The interest in the trial and subsequent appeals of student Christopher Leggett reached new heights when a Washington, D.C., law firm with clients including Hillary Clinton took his case and the University of Virginia reached an agreement granting Leggett a retrial, readmission to the university and approximately \$40,000 in legal fees.

Unfortunately, the case was tried in the university honor court, a sacred institution to the University of Virginia where for the most part reporters are not allowed.

Honor committee chair Jimmy Fang said all hearings are closed unless the defendant requests them open. Fang said the court holds trials on the weekends and then usually releases a general press release on Monday regarding the outcome of cases.

Details about the hearing seeped out to the University of Virginia paper, however, which they reported.

The day after the article ran Hanlin received a letter from University General Counsel James Mingle warning Hanlin there could be consequences in reporting further on the case.

"Recently I was informed that *The Cavalier Daily* intended to publish an edition for distribution to all in-coming students which will examine the actions of University administration and the Honor committee in the case of Christopher Leggett," Mingle wrote.

Near closing he wrote, "Any unauthorized dissemination of confidential information by any student concerning another student's Honor trial or appeal will lead to the filing of judiciary charges by the Office of the Dean of Students, if appropriate."

(See CAVALIER, page 33)

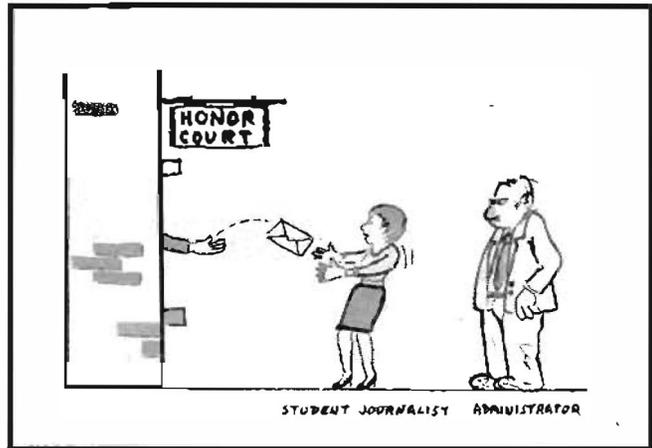
OSU

(Continued from page 30)
records."

Furthermore, the court quoted from the university's own guidelines for promotion and tenure procedures. It says aspects of tenure and promotion are *not* exempted from the Ohio Public Records Act.

The university also argued that "since the integrity of the tenure process depends on the confidentiality of evaluators of candidates, the disclosure of evaluators' names violates the university's constitutionally protected right to academic freedom."

The court decided, however, that "the existence of a tradition of confidentiality in the promotion and tenure setting does not mean that scholars will refuse to provide candid evaluations in the future simply because the records could be made available to the public." ■



Student government ass'n meetings must be open

LOUISIANA — The Louisiana State University Student Government Association is a public body subject to the state's open meetings law, according to an opinion from the attorney general's office issued last August.

The opinion came as a response to state Sen. Michael Cross's (D-Baker) inquiry about a secret ballot vote by the student senate at Louisiana State in Baton Rouge.

Cross questioned if "such action was permissible or whether the provisions of the Open Meetings Law require the student government association to vote publicly."

He sought the opinion on behalf of the speaker of the student senate who is also a constituent.

In overruling former attorney general opinions, the assistant attorney general, Gina Puleio, said the student government is a public body and the student senate may not vote by secret ballot.

Although a ruling such as this does not hold the weight of law, it is generally followed unless overruled in court.

Citing several factors, including the student government constitution, Puleio found that, "[t]he Student Government is constituted as the official advisory body to the University Administration, the Louisiana State University Board of Supervisors and the Louisiana Legislature."

Puleio also said the student government association has administrative and policy making functions for the university.

In light of these facts, Puleio reversed the past rulings and said all meetings must be subject to the open meetings law and all business conducted in public unless it falls under one of the exemptions to the law.

According to court decisions and attorney general rulings, student governments in states including Alabama, Missouri and Montana are subject to open meeting laws whereas in states such as Connecticut, Hawaii and Kansas, they are not. ■

SPJ leads fight to open campus courts

Student journalists almost have to be thieves to get their hands on campus crime information. Reporters say they are repeatedly denied access to campus courts and crime reports.

To help break down some of these access barriers the Society of Professional Journalists created a task force comprised of 13 student and professional press and academic organizations including the Student Press Law Center.

The task force, established in September 1993 to open campus court proceedings and disciplinary records relating to criminal incidents, will continue for another year focusing on educating student media and the public about this area of access.

It will also confront the Department of Education's anticipated regulations on coverage of campus courts.

The Society of Professional Journalists originally established the team, headed by Atlanta Associated Press reporter Carolyn Carlson, to last a year. However, the current chair, assistant professor of journalism and publications adviser at Troy State University, Gordon "Mac" McKerral, said continuing the work of the task force now remains vital.

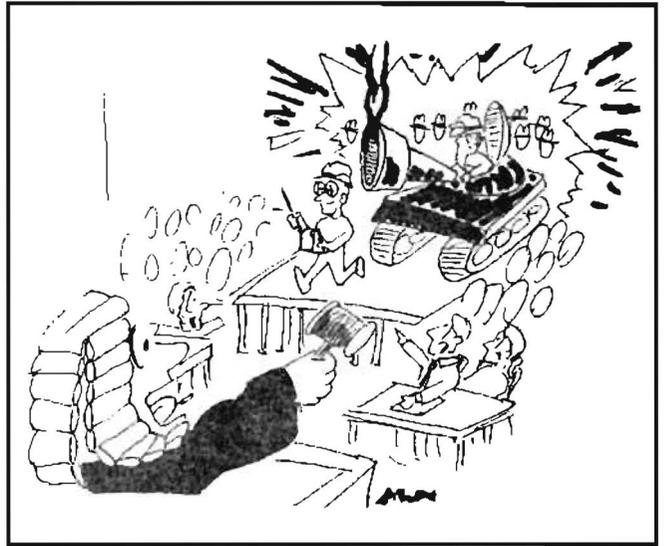
"We have a mission until the laws and regulations allow access," McKerral said.

The task force spent the first year educating its members on the workings of campus judicial systems and encouraging the student media to do the same. Now it must build on the foundation established in the first year and encourage communication among groups disagreeing on this issue, McKerral said.

The task force encouraged communication and education through means such as a "town hall" meeting, held in conjunction with the Society of Professional Journalists National Convention in September, aired on C-SPAN with 15 panelists from all sides of the issue.

McKerral said the task force will aggressively market the SPJ videotape of the discussion and continue promoting public education.

"This is not just a student press issue," McKerral said. "It's a public matter." ■



Scholarship records open

LOUISIANA — Louisiana's largest newspaper stands firm in its attempt to recover records that may prove state legislators were giving scholarships to family and friends.

The *Times-Picayune* of New Orleans won access to five state legislator's scholarship nominating forms for Tulane University in a trial court decision in January 1994 and again at the appellate level in October.

According to a law more than a century old, each state legislator can nominate one student to have his or her tuition waived at Tulane. The mayor can also award scholarships without review.

Although the appellate court ruled in favor of the newspaper, the decision provided only the bark and not the bite of the prior ruling.

The appellate court agreed that the forms were public records according to the Louisiana open records law and that the legislators were the custodians of those records. Contrary to the trial ruling, however, the court neither ordered the legislators to comply with the law nor

(See *TIMES*, page 33)

NCAA inquiry records stay closed, court rules

Court upholds Auburn's promises of confidentiality

ALABAMA — An Alabama trial court in October blocked another play by *The Birmingham News* to intercept an Auburn University football record.

The News sought access to Auburn University's response to a National Collegiate Athletic Association letter of official inquiry regarding the conduct of the football team.

The alleged violations included financial aid and gifts for the players.

In the case *The Birmingham News Co. v. Muse*, which

was sent from the Alabama Supreme Court back to the trial level, the court upheld the prior ruling, denying *The Birmingham News* access on grounds of promises of confidentiality.

"The majority of the statements which are part of the Response were received under express promises of confidentiality. The materials and information in the statements are intertwined in the Response. If the promises of confidentiality are to be honored, it would be difficult, if

(See *BIRMINGHAM*, page 33)

Times

(Continued from page 32)

awarded the plaintiffs attorneys' fees. The court said now that it declared the records were open it could not assume the legislators would refuse to comply

The controversy began when Mayor Sidney Barthelemy awarded the approximately \$17,000-a-year tuition waiver to his son.

with the law.

Thus *The Times-Picayune* has requested a rehearing of the case.

In the petition for rehearing, *Times-Picayune* attorneys Jack Weiss and Mark Holton refuted this logic saying "[t]here is no basis in the Act requiring a requester to first obtain [a ruling on the relevant law], wait to learn the custodian's reaction, and only thereafter, if the custodian refuses to comply,

finally obtain [a formal order requiring the custodian to follow the law]."

Furthermore, they argued by denying attorneys' fees, a routine provision of the law, the court would inhibit citizens from asserting their rights and curtail public access to government documents.

The controversy began in the summer of 1993 when reporters learned that New Orleans Mayor Sidney Barthelemy awarded the approximately \$17,000 a year tuition waiver to his son, Sidney Barthelemy II. The public learned about the scholarship when it was recognized in a graduation program.

According to the newspaper, the mayor also granted scholarships to his nephew, the daughter of a city councilman and some children of friends and political allies.

Times-Picayune reporter Peter Nicholas then delivered freedom of information requests to one senator and five representatives for access to and copies of all nominating forms. The senator complied and was subsequently removed from the lawsuit, but the other legislators complied only in part or not at all. ■

Nevada

(Continued from page 30)

government why should I trust them?" Wallach questioned.

He did concede, however, that it could put high-ranking school officials in compromising positions to let others know they are seeking an alternate position.

Berkley expressed the same concern.

When Del Papa announced that the process would be open, 20 of the 73 applicants removed their names from consideration.

The regents then abandoned the search altogether and started over.

"We literally took 70 applications and threw them in the garbage," Berkley said.

The new selection was completely open, although one of the five finalists withdrew because the interview would be public, according to Berkley.

Wallach said he does not think fewer people will apply because the meetings are open. ■



Birmingham

(Continued from page 32)

not impossible, to edit out this material and release a response that made sense," the circuit court said.

The supreme court had agreed with the defense that confidentiality is imperative for the NCAA, a self-policing organization.

Attorney Holly Barnard who represented *The Birmingham News*, said the case was returned to the trial court for a review of all relevant documents to discern if any could be disclosed. Apparently in the previous *in camera* review the judge looked at some, but not all, of the information.

On Aug. 17, 1993, the Auburn University Tigers were placed on probation for two years including no television appearances for one year and a reduction of scholarships.

Although these sanctions came more than a year before the latest hearing, the court still refused access to the records.

Barnard said her client has not decided if they will appeal the trial court's decision. ■

Cavalier

(Continued from page 31)

Hanlin called the bluff and ran the story again anyway in the new student edition. Mingle would not comment and referred all press issues to Louise Dudley, the director of university relations.

Dudley said the letter has been misinterpreted, that it was only spelling out federal law and campus policies regarding confidentiality. She said every student has the right to privacy.

Dudley said the university did not follow through with disciplinary actions because the *Cavalier Daily* did not print any "protected" material.

Fang said the subject of confidentiality in the Honor Court is a big issue right now. "We are still in a state of flux," he said. ■

EXPOSED

Oregon law that seeks to protect a student's privacy confuses schools and the media

OREGON — "Can we take photos of students at school events?" "Can we list names of graduating seniors?"

Members of the Oregon Newspaper Publishers Association and local reporters are asking questions such as these about an Oregon law passed late in the 1993 session that some believe may restrict the student and commercial media in covering student activities.

"It's a policy that was well intentioned, but not very well thought out," said Jack Orchard, an attorney who has received several calls concerning the new law.

The law addresses access to student records, dividing information into directory and non-directory information. Directory information includes facts such as the student's name, date of birth and activities. School employees can release this information unless a parent asks them not to.

The most confusion and controversy, however, has arisen from the non-directory information. This includes the student's address, telephone number and photographs. For a school to release this information it must obtain parental consent.

Orchard has received calls from several local schools and media organizations confused about the law.

He described one call in which a small town school informed the local paper it did not need to bother showing up to cover school sporting events.

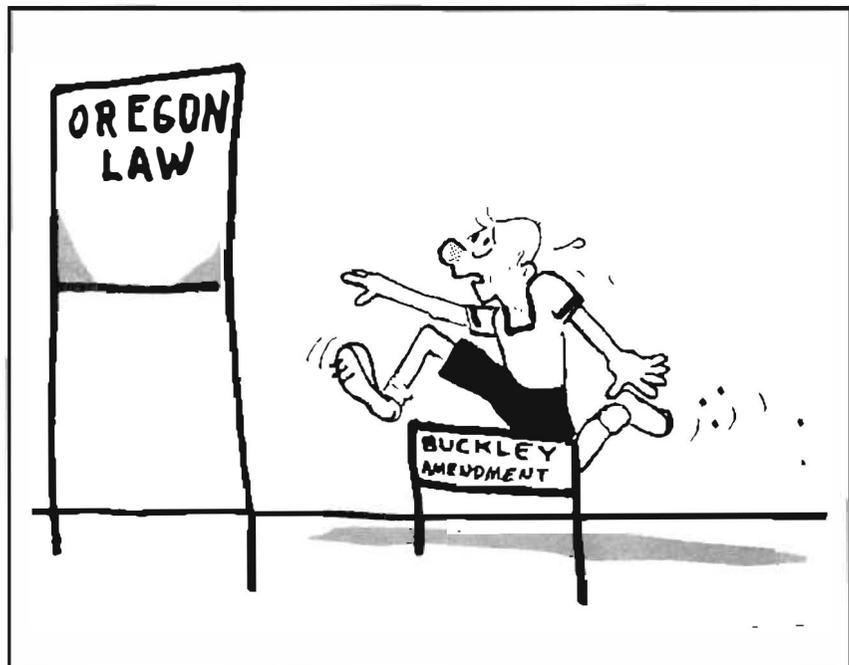
This interpretation would be incorrect, according to Don Perkins, a records specialist for the Oregon Department of Education. He said if school officials tell the commercial media they may not take pictures of students then they have applied a narrow interpretation and the district has taken the law too far.

Perkins said some media have asked

coaches to collect signed permission forms from their players allowing disclosure of their photographs as one way of dealing with the law.

He said it is the responsibility of each school district to adopt the policies complying with the new legislation and the Oregon DOE can interpret the regulations, but when put to the test a court will make the final call.

(See OREGON, page 36)



Court says principal is a public figure

OKLAHOMA — Chalk up another mark for the media in the ongoing libel battle.

The game: determining whether a principal is a public figure or official subject to greater limitations on his/her ability to successfully sue for libel. The press just increased its lead with an appellate court victory in Oklahoma with the case *Jordan v. World Publishing Co.*

William H. Jordan, principal of a Tulsa Public Schools middle school, alleged the *Tulsa World* newspaper was negligent when it published a letter to the editor he claimed was falsely attributed to him. Apparently the letter was written on Tulsa Public School stationery, enclosed in a Tulsa Public School envelope and contained the plaintiff's name both typed and signed at the bottom.

Jordan claimed he did not write the letter which condemned "black looters, rioters, and killers in Los Angeles" and called for parents to teach positive values to their children.

Jordan did not allege actual malice in the case. Instead he relied entirely on his claim that the newspaper was negligent. Attorney Bill Wilkinson who represented Jordan, said the

paper was negligent because it did not follow its own policies to insure that false or fake letters are not published. But both the trial court and the appellate court ruled that Jordan was a public figure and thus was required to demonstrate malice on the newspaper's part.

The court found that even if the paper had failed to follow its own policy, it did not have knowledge that the letter was false or reckless disregard for the truth, which malice requires.

Wilkinson said the decision was "an unwarranted extension of freedom of speech." He said it exonerates a publisher from any responsibility and the publishers in this case were "slipshod" in their policies.

Similar cases involving principals have been argued in Minnesota, Vermont, Maryland, Mississippi and Tennessee. They all deemed principals as public figures or officials whereas courts in Georgia and Illinois ruled in the opposite direction. There is no Supreme Court decision addressing this issue.

Until the Supreme Court hears a case involving principals as public figures, the ball remains up in the air in the state courts. ■

Privacy case pending

VERMONT — Proud parents, teachers and the Bethel community waited expectantly on opening night for the local high school production of "Romeo and Juliet." A production that was not to be.

Just minutes before the December 1992 show time the drama coach canceled the play leaving the audience out in the cold.

The crowd left Whitcomb High School disappointed and confused. Six days later they received an explanation in a *Herald of Randolph* article titled, "Audience Asks: Romeo, Where Art Thou, Anyhow."

The article said the play was canceled because John Huntley, who was scheduled to play the Duke of Paris, did not meet academic eligibility requirements.

According to Superintendent Tom O'Brien, to meet academic requirements a student must be enrolled in a minimum of six courses and maintain above a 70 percent grade average without failing a class or excessive tardiness. He said teachers complete eligibility forms weekly for students in all activities, not just drama.

Although Huntley did not meet these
(See HUNTLEY, page 36)

Opinion piece covered by First Amendment

MICHIGAN — The Michigan Court of Appeals has thrown out a defamation lawsuit filed by a school superintendent against the *Detroit News* saying an editorial column was protected by the First Amendment as satire.

Roger Garvelink, superintendent of the Birmingham school system from March 1978 to June 1990, filed suit against the *Detroit News* for an editorial column about an interview with the fictitious character, "Supt. Roger Gravelhead."

The trial court ruled in favor of Garvelink, but the appellate court reversed the decision.

The column appeared on the editorial pages following the defeat of a controversial millage proposal for a \$65 million bond increase. Because of the defeat, Garvelink and a number of others made budget cuts totaling \$7 million with the prospect of an additional \$5 million slice from the next year's budget.

Chuck Moss wrote the humorous column satirizing the situation with the proposal of "punishment cuts" by the fictitious Gravelhead, to "make the kids hurt and the parents howl."

Garvelink did not find it funny.

The court, however, protected the newspaper saying the column was an obvious satire, that it contained "the sort of loose, figurative, or hyperbolic language which would negate the impression that the writer was seriously maintaining that this was an actual interview with the plaintiff."

The column appeared on the editorial page signaling to the reader that the column would be an opinion and not an assertion of fact, according to the court.

The court said "no reasonable reader would believe that a school superintendent would have actually made the comments in the column." Further they said, "The column's tone is humorous and the very writing style suggests that the column did not concern actual events."

The column was therefore protected in part by the Supreme Court decision *Milkovich v. Lorain Journal* asserting that "in cases where the statements cannot reasonably be interpreted as stating actual facts about the individual, then those statements are protected under the First Amendment." ■

Huntley

(Continued from page 35)

requirements, he sued the *Herald* and high school officials for invasion of privacy claiming he and his mother suffered emotional harm, embarrassment and damage to their reputations as a result of the article.

He transferred school districts following the event according to the *Herald* article.

The high school and administrators named in the suit settled out of court, but the claim against the paper is pending. Huntley's attorney, Gary Schall, would not disclose the details of the settlement. The principal, Steve Michlovitz, refused to comment and referred all calls to O'Brien who said he did not know much about the settlement.

The *Herald of Randolph* editor M. Dickey Drysdale said he does not believe the article was an invasion of privacy and he will not admit to it by reaching a settlement.

This case sets the right of a minor to privacy against the right to know of the community. Schall admits that the community had the right to know why the play was canceled, but contends the student's name was not newsworthy and should not have been published.

The defendants made an appeal to the Vermont Supreme Court to decide if the case could be dismissed without a trial, but the motion was denied.

Schall said no trial date was set as of November but it looked as if the case would go to court. He said it brings up some interesting privacy issues and he hopes to see the case resolved soon. ■

Oregon

(Continued from page 34)

Part of the confusion with the law stems from this inconsistency in interpretation.

"There are as many interpretations of the law as there are school administrators," Orchard said.

Carla Harris, director of the Northwest Scholastic Press, indicated the school district interpretations did not match the original intentions of the legislation.

She said interest groups will probably take action to get the law amended or at least clarified.

The ONPA may be one such group.

With an abundance of calls and concerns, Hal Rehm, the manager of government affairs for ONPA, said this issue is "going to be on the list of things to do in the immediate future."

Although the law appears to have caused dissension from several organizations, such as the ONPA, its purpose was not to limit the media.

Perkins said legislators enacted the law because of concerns about student privacy.

In fact, a domestic dispute may have inspired the legislation. Orchard referred to an alleged incident involving a newspaper photograph of a student in the witness protection program.

Another source referred to custody battles and children trying to keep their locations secret as a concern that may have prompted the law. ■

Golde

(Continued from page 29)

live comment on an evaluation and that followed the affirmative action article.

Brandon Ross wrote the controversial article for the editorial page titled "Affirmative Action Adds to Discrimination" in the September 1993 issue of the school paper. In it he asserts that according to academic indicators white and Asian students are more qualified for college admissions than blacks. "But how many Jewish or Asian NCAA Division I basketball players are there?" he asks later in the article. He suggests that readers accept cultural differences.

Following publication of the article Nicholson said the school remained quiet for about two weeks until one student got excited about the issue and drummed up opposition to respond to the column.

Concerned students and parents confronted the school board and wrote letters to the editor condemning Ross and

his cultural insensitivity.

Board member Schwartz described the article as poorly written. "It had dubious factual content and the writer did a poor job of corroborating fact with opinion," he said.

After a few school board meetings where everyone had a say, the issue died down until last September when Nicholson informed Golde he would no longer be advising the publication.

Nicholson said the relationship between the article and the dismissal is a natural correlation.

The 1994 school board made the decision not to resubmit Golde's name to the newly elected superintendent, William Heebink. Heebink was unavailable for comment on the incident.

Despite the school board's condemnation of Golde, Nicholson submitted his name for the yet vacant position. Nicholson said Golde deserved the position. The school board simply overreacted to the student outcry, he said.

As of November the paper continued

to function without a formal adviser. Nicholson has informally advised the publication until a new adviser is selected.

Editor in chief David Oransky praised his former adviser and said the affirmative action article was at least 75 percent of the reason why Golde was fired.

"It's a defamation of character on Mr. Golde," Oransky said. "It was blatant ignorance on the part of the school board and it teaches us a poor lesson."

Oransky said the school board has kept Golde and the newspaper staff in the dark about the dismissal. "They have to stand up and be counted and justify their votes," he said.

Golde said he just expected the position and was surprised when Nicholson informed him he was not rehired as adviser. He maintained his teaching position and had begun his fifteenth year in charge of the paper when he heard the news.

Katz said choosing not to rehire an adviser is unusual but not unprecedented. ■

Miami Hurricane's advertising policy revised

Wealthy donor changes his mind about refusing \$2 million gift

FLORIDA — School officials at the University of Miami have recently revised the policies and procedures manual for student publications, prohibiting defamatory or hateful advertisements.

The revision was a result of *The Miami Hurricane's* publishing of a Holocaust revisionist ad last spring that claimed the extermination of six million Jews is an exaggeration.

The university president refused to reprimand the newspaper for printing the ad despite a donor threatening to withhold a \$2 million donation.

"At a university of all places, we should err, if at all, on the side of freedom of thought," said Edward Foote, president of the university.

The new policy states, "The [ad-

vertising] code is intended to prevent false and misleading advertising, that

"At a university of all places, we should err, if at all, on the side of freedom of thought."

Edward Foote
University of Miami President

adversely affects the integrity and credibility of student publications as sources of truthful and accurate information, that is unacceptably repugnant, or that is in conflict with the basic educational mission of the University.

"Student publications will not knowingly... accept any advertisement which is defamatory and/or hateful, untruthful,

misleading."

Sunglass Hut owner Sanford L. Ziff threatened to withdraw a \$2 million donation from the university as a result of the Holocaust ad.

However, Ziff said he was "very comfortable that I could pledge the money. This horrendous incident is behind us."

Fernando Battaglia, editor in chief of the *Hurricane*, said although he was not happy with the policy prior to the revision, the revised version still keeps the decision out of the hands of the students. Because the university is private, students have no First Amendment grounds contesting the limitations.

"I'm happy, however, that they didn't get into the editorial side of the paper," said Battaglia. "Changes were made only in advertising policy." ■

Administration bans all advertisements from paper

Student editors are told funding is no longer available for printing costs

INDIANA — Connersville High School Principal Stephen Kaiser placed a ban on all advertising in the student newspaper, *The Clarion*, after refusing to print an ad from Planned Parenthood.

According to the local *News-Examiner*, Kaiser also told staff that the funds for *The Clarion* were no longer available and it could not be commercially printed, but rather, reproduced on the school's copy machine.

Kaiser later rescinded on his decision and allowed the newspaper to be printed commercially, but the ban on advertising remains in effect.

Although the high school and the newspaper reached a compromise, editor Tony Wilson told the *News-Examiner* that he felt the real issue was being avoided, that is, censorship of the advertising.

As a result of the ban on advertising, Fayette County Health Nurse Claire Monroe spoke to the school board regarding the Planned Parenthood ad, stating that Fayette County maintains one of the highest teen pregnancy rates in the state of Indiana.

"As a community we have to be more responsible in correcting this problem. And as community leaders we have the ability to make changes," said Monroe to the *News-Examiner*. "I don't think it's responsible of us as adults to censor."

The school board voted unanimously to take the matter under advisement.

Although Kaiser said production costs were his only reason for restricting the funding for the newspaper, the students said they be-

lieve otherwise.

"It seems like [Kaiser] is trying to divert our attention from the real issue," said Wilson.

The story has received statewide

"I don't think it's responsible of us as adults to censor."

Claire Monroe
Lafayette County Nurse

attention from the media.

Superintendent Gerald Knorr, Wilson and co-editor Pam Rigling were all interviewed by a reporter from an ABC affiliate regarding the controversy. ■

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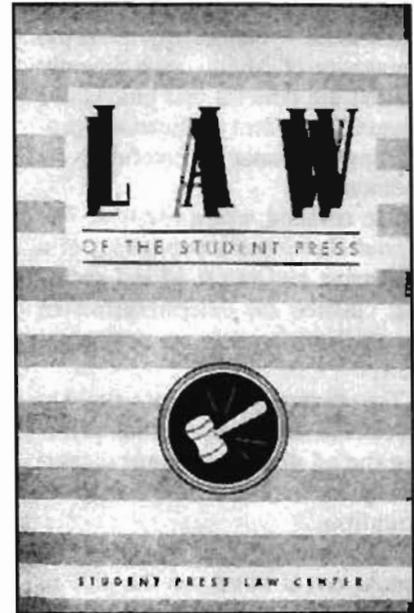
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