The Assault on Advertising
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The assault on advertising
Censorship of ads is a disturbing new trend

During the 15 years the Student Press Law Center Report has been in existence, we have spent many pages covering the battles for press freedom being fought on high school and college campuses. Typically, our stories have focused on efforts by students to determine for themselves what will appear on the news and editorial pages of their publications.

The cover stories in this issue of the Report describe the same battle but on a different front: the space devoted to advertising. Across the nation high school and college journalists are confronting censorship of advertisements by school officials, student governments, state legislatures and even Congress that are just as much a threat to the independence of their publications as censorship of a frontpage story would be. And unfortunately, some who profess to be supporters of press freedom think this censorship is just fine because "it's only advertising."

The assault on advertising has several serious negative effects on the student press. The first and most obvious is the economic impact. For every advertisement censored from a student newspaper, magazine or yearbook, revenue is lost that pays for the editorial space in the publication. Some publications are reporting losses of thousands of dollars as a result of ads that have been censored. And for every ad dollar lost, there is less room for the news and information that the publication is there to provide.

But the advertising is important in its own right as well. Many publications see their advertising space as the commercial equivalent of letters to the editor, an opportunity for the community members to convey their own news, views and information to the publication's readers. Censoring advertisements means the public has less information than it would otherwise have had. It means the government is acting as "Big Brother" and deciding what people should and should not read instead of letting them read what they want and decide for themselves what to make of it. If there is any notion contrary to the ideas behind the First Amendment, that one certainly is.

And most importantly, advertising censorship takes away from student journalists the important lessons learned from making difficult decisions. The commercial press makes decisions each day about controversial or questionable ads, and if working on a student publication is intended to be training for the "real world," students should be learning to decide for themselves what ads are appropriate for their publications and their readers.

For those of you feeling threatened by censorship on your advertising pages, be willing to fight for the freedom to make your own advertising decisions. Show your critics that you have developed your own policies about advertising acceptability and that you are just as concerned as they are about running "responsible" ads. But let them know that you will never willingly accept their censorship of advertisements for legal products or services because you believe in the First Amendment and all it stands for.

It looks as if the battle is just beginning. But rest assured that the Student Press Law Center will be behind you every step of the way.

Looking for a little attention?

The Scholastic Press Freedom Award is given each year to the high school or college student or student news medium that has demonstrated outstanding support for the First Amendment rights of students. The award is sponsored by the National Scholastic Press Association/Associated Collegiates Press.

Nominations for the award are accepted until August 1 of each year and should clearly explain why the nominee deserves the award and provide supporting material. A nominee should demonstrate a responsible representation of press freedom through writing or actions and the ability to raise difficult and necessary issues in news coverage.

Send nominations to:
Scholastic Press Freedom Award
Student Press Law Center
1735 Eye Street, NW
Suite 504
Washington, DC 20006

Spring 1990
NOW ads create controversy

Catholic universities squelch abortion rights efforts; schools say pro-choice issue violates church morality

Student journalists at two Catholic universities have faced threats, suspensions and censorship because of National Organization for Women ads supporting November abortion rights rallies.

At Marquette University in Wisconsin, the journalism school dean fired an adviser and suspended two students from their positions on the Marquette Tribune following publication of the NOW ad in the Nov. 10 issue of the Tribune.

Judy Reidl was fired from her position as the business manager. Students Greg Myers, editor in chief of the Tribune, and Brian Kristofek, advertising director of student publications, were suspended from their positions for the rest of the school semester.

However, Myers said that because the journalism faculty and the student government appealed the decision, the university allowed the students to return to their positions after 15 days.

Reidl did not get her job back. She filed a grievance against the university and threatened to sue. However, she agreed to an out-of-court settlement with the university in December. She will continue to receive her pay until she finds another job or until her contract runs out in August, and the university has made a “small payment” to help her with job hunting.

The settlement also required the university to write a press release acknowledging that “Judy Reidl was acting in good faith according to the written guidelines for implementation in existence at that time.”

Myers wrote a personal apology to the president, vice president, academic vice president and assistant to the dean. He wrote that he was sorry if the school’s reputation had been hurt by the incident. At the request of university officials, Myers printed the letter in the paper.

Despite writing the apology, Myers does not believe that running the ad was in violation of the university’s policy at the time.

“We discussed it for five minutes. There was no controversy.”

The policy had been changed in the spring of 1989 after the university complained about a different ad that had run in the Tribune. The change said that the board of student editors would act on behalf of Marquette University in deciding whether to accept or reject any advertising.

Reidl was on the committee that decided to make the change in the policy, and she said that the committee specifically avoided inserting a clause that would have required student editors to make their decisions based on Catholic doctrine.

She said that students at the university are not all Catholic, and there are no requirements that anyone on the Tribune staff be Catholic.

“We didn’t view ourselves as a Catholic paper, but as a student paper,” Reidl said.

However, this change in policy seemed to be the university’s reason for firing Reidl and suspending Myers and Kristofek.

Myers said that he knew of the change, but did not think it required him to handle advertising any differently.

“When that surface I didn’t think [the change] meant anything,” Myers said. “I’m not convinced anyone knows what it means.”

A list of ads that needed to be considered by the board of student editors under the policy guidelines included “abortion services.” However, the list began with the statement, “This list is for purposes of discussion only! It is not a list of forbidden ads!”

Sharon Murphy, dean at Marquette’s journalism school, said in a letter to journalism alumni that because the ad was a violation of the Catholic Church’s teaching on abortion Reidl and the students on the staff should have brought the ad to her for approval.

Murphy wrote, “[Reidl] should have put a hold on the ad and brought it to me for review, as has regularly been done in the past when questionable ads were considered.”

Reidl, who had worked for the university for seven years, said, “Nowhere in the policy did it say that these ads had to be brought to the dean.”

However, Reidl said that in the past some potentially controversial ads had been shown to Murphy before the paper was distributed.

Reidl said that this was done only as a courtesy to Murphy so that if angry phone calls were made to the dean’s office following publication, Murphy would have a basis for discussing the ad with the caller.

Since the publication of the ad, the policy has had another revision. Now students and advisers must submit “sensitive” ads to the dean for approval.

“Students have lost so much,” Reidl says of the new policy. “The new policy has eliminated their ability to determine the advertis-
ing content of the paper. It's supposed to be a learning experience."

However, Murphy stressed in her letter that the editorial content of the newspaper will remain in the hands of the students.

At Georgetown University in Washington, D.C., editor in chief of the student newspaper Timothy Flynn notified a "low-level" university official of the staff's intention to print a NOW ad. When a higher ranking official was told of the staff's decision, the university asked Flynn to wait before printing the ad.

In response to the university's request, the newspaper staff withheld the ad from the Nov. 3 issue of The Hoya, a bi-weekly publication. When campus officials ordered them not to print the ad at all, editors voted to ignore the decision and print the ad in the Nov. 10 issue.

Flynn said that Jack DeGioia, dean of students, told him that the school could take sanctions against the paper, including a one year suspension, if he printed the ad. With that in mind The Hoya's staff decided not to publish that issue of the paper, rather than publish it without the ad.

Renee DeVigne, assistant dean of students, speaking on behalf of DeGioia, said that there were no threats made against the paper or its staff, but DeGioia had certain options available to him if the students ran the ad.

DeVigne said that DeGioia could have suspended the editor, taken funding away from the paper or done nothing. She said he never had to decide what to do because the students chose not to publish the issue.

The Voice, Georgetown's other student newspaper, and The Hoya published a joint issue about the controversy, and then agreed not to publish again until the dispute was settled.

When university officials decided to appoint a team of faculty members and students to examine the rules governing the university media, the papers began publishing again.

Flynn said the university has not censored the paper since the November incident, and he does not expect it to be a problem in the future.

If he was in the same situation again, Flynn said that he would print the NOW ad, but he does set limits to what he will publish.

"We reject ads every day," Flynn said citing term paper and escort services as types of ads that are generally not accepted for publication.

At The Catholic University of America in Washington, D.C., a NOW ad was printed in the Nov. 3 issue of the Tower with relatively little reaction from university officials.

Christine Laciak, editor of the Tower, said that the university's main response was a critical letter to the editor from the vice president for student life.

The only other response on the part of the university has been to reinstate the Median Council, an advisory group comprised of students, faculty and professionals in journalism. Laciak does not expect the group to impose

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Stand Up.
Be Counted.
While You Still Have the Choice.

Your right to choose is in jeopardy:
- George Bush, bowing to pressure from the far right—continues to veto pro-choice legislation supported by the majority of Americans.
- The U.S. Supreme Court is set to hear three new cases calculated to further erode Roe v. Wade.
- State legislatures all across America are poised to further restrict abortions.

On Sunday, November 12, Americans will take action to dramatize our support for the right to choose, to demand that this fundamental American freedom be protected, to demonstrate that we will never go back to the days when abortion was illegal.

Stand up with us on November 12, when America mobilizes for women's lives.

Add Your Voice to Choice. There will be a rally at the State Capitol. For more information, please contact Dick Withers at 414-271-8045.
Laciak said that because of the political nature of the ad, she considered it to be protected speech, and she said similar ads might be run in the future.

Young Americans for Freedom, a student organization at Catholic University saw the ad as a violation of Catholic principles.

Laciak said that on Nov. 6 the group gathered outside a building where a student-faculty meeting was scheduled. They came equipped with garbage bags full of copies of the Tower, a foil-wrapped waste basket and plans to burn the papers in protest of the publication of the NOW ad.

After discussing their plans with faculty members, the group decided to call off the fire and to air their grievances at the student-faculty meeting.

In the face of all the controversy, the National Organization for Women has not remained silent.

Responding to the ad's rejection by administrators at Georgetown, Molly Yard, president of NOW, said, "Administrators of Catholic universities are seeking to stifle the raging debate among Catholics on the issue of abortion.

"These universities should encourage a free-exchange of ideas and allow students to make up their own minds on this and other controversial issues. A university, of all places, if it is to truly educate, must allow free dialogue on all subjects."

The week that the Tower published the controversial ad, administrators at Catholic University cancelled a scheduled speech by Yard.

Yard responded by saying, "It is sad that a university located right in the nation's capital would forbid the airing of an issue that is at the center of American political debate. It is not in the academic spirit or the American spirit to practice censorship."

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**Marquette scraps condom ad**

**WISCONSIN — The censorship of advertising at Marquette University became an issue for the second time in one month last November when copies of Campus Vision, a magazine usually inserted in college newspapers, was instead distributed to local merchants with "censored by MU page 39" hand printed on the cover.

In the wake of a controversy surrounding the publication of a pro-choice ad, student editors at the Marquette Tribune decided Campus Vision would require review by the dean of the journalism school before being distributed with the Tribune. The magazine contained a condom ad on page 39.

Stephanie Walters, a former editorial board member at Marquette, says she found approximately one thousand of the magazines in a trash dumpster and decided to distribute them.

Walters said she enlisted the help of several other people who wrote "censored by MU page 39" on the cover before distributing the magazines around the city of Marquette.

Walters said she received permission from the circulation manager at Campus Vision before taking action.

Greg Myers, editor in chief at the Tribune, maintains that the magazines had not been approved or denied, and he said they were still sitting in the publication's offices, not the dumpster, when Walters took them.

The magazine was eventually rejected as an insert by the dean of the college of communications, journalism, and performing arts after Walters had already distributed them, according to Myers.

Myers fired Walters for involvement in the defacement and distribution of university property."
Free press: Catholics talk student rights

INDIANA — About 125 students from 42 Catholic colleges and universities discussed issues of academic freedom at the first meeting of the National Association of Students at Catholic Colleges and Universities. The newly formed group held its first meeting at the University of Notre Dame in early February. The organization's president, David Kinkoph, said that general issues relating to academic freedom were discussed. He expects future meetings to address more specific topics including press freedom at Catholic schools.

Kinkoph, a senior biology and theology major at Notre Dame, said he does not think there is a problem with freedom of expression at Notre Dame, but he suspects that students at other Catholic colleges and universities may have greater restrictions placed on their freedom.

"There's no forum for [students at Catholic schools] to express their views on issues that affect Catholic campuses," Kinkoph said.

The group has sent out a survey to students on Catholic campuses to try and find out what issues need to be addressed, Kinkoph said.

National meetings will be held once a year, but at the regional level Kinkoph expects meetings to be held twice a year.

The meeting was advertised through mailings to student body presidents at Catholic colleges. No representatives of the student media were present, Kinkoph said.

Gay ad rejected

VIRGINIA — Conflict between student journalists and the Fairfax County community surfaced when an Annandale High School principal banned an advertisement for a gay youth group.

After an appeal to school superintendent E. Wayne Harris, the advertisement appeared in a later issue of the student newspaper The A Blast. Nevertheless, Annandale High School was one of only 15 newspapers that initially published the advertisement in their paper. The ad, sponsored by Washington's Sexual Minority Youth Assistance League (SMYAL), was submitted to 79 area high schools.

The ad provides information on upcoming gatherings for gay, lesbian and bisexual young people and a HELP-line available for more information and counseling.

Currently, a petition is being circulated among several Fairfax County communities protesting the advertisement and calling the ad destructive to traditional family values. Julie Morrissey, the general coordinator of SMYAL, said that the petition, originated by Sam Erikson of the Christian Legal Service in Maryfield, Va., contained factual errors about the purpose of the group.

"Just the fact that I had to do research in order to find anything out about the petition's source tells me it was probably motivated by one person's views on the subject of homosexuality," Morrissey said.

The problem initially received local publicity after the student business manager of Annandale High School's student paper Matt McGuire and editor Margie Brown argued over whether to accept the advertisement. Despite a staff vote showing that a majority favored its publication, principal Ray Watson refused to allow the paper to run the ad.

McGuire said that Watson's original decision was based on conservative community standards, personal beliefs and the recent Hazelwood decision.

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WASHINGTON, D.C.—A Congressional bill to limit alcohol advertising in college publications died in November, but student newspapers across the country are still battling efforts to restrict their advertising freedom.

A bill, introduced by Sen. Jeff Bingaman (D-N. M.) in October and passed unanimously by the Senate, would have forced schools to adopt policies limiting alcohol advertising to price and product identification information. After subsequent amendments that weakened the bill, the House failed to approve its provisions and a House-Senate conference committee excluded the language altogether.

But college students from Chico State University in California, James Madison University in Harrisonburg, Va., the University of California at Los Angeles and the University of Scranton in Pennsylvania claim that pressure to limit alcohol advertising in their newspapers is far from over.

Concerned with Chico State University's "party school" reputation, university president Robin Wilson urged staff members of the *Orion* student newspaper to devise a new alcohol advertising policy. Herman A. Ellis, Assistant Vice President for Student Life, said that Wilson's pressure to create the advertising policy was the result of the president's fears that advertisements for drink specials and alcohol-related events, as well as the use of the Chico State logo in the ads, was promoting irresponsible drinking.

"Wilson wanted to change the stereotype placed on Chico State as a wild, drinking school. He knew he couldn't say 'stop advertising alcohol—period.' And he couldn't just single out alcohol advertising, especially the advertising that appears in student papers," Ellis said.

Under Wilson's supervision, student staff members of the *Orion* were instructed to create their own alcohol advertising policy. Their guidelines included minimizing references to alcohol in advertisements, deleting advertisements for drink sales or bar specials and publishing ads encouraging responsible drinking. Students must also refuse ads which feature the Chico State name or logo in association with alcohol. Ellis said that the paper's appearance and mood is markedly changed and that economic problems have occurred with the policy.

"The biggest problem has come with the advertising contracts the *Orion* has with local distributors. They still have to honor those contracts. Students have to say 'no' to new distributors who wish to advertise alcohol, while running ads from other companies. That is something I know students are not happy about but will just have to work out," Ellis said.

Students on the *Orion* staff expressed mixed feelings on the new policy. Advertising sales representative Jeff Cook said that he felt Wilson's influence in the *Orion's* advertising policy was stronger than necessary.

"I know Wilson's intentions are good. I hate Chico State's party school image, too. And I take my academics seriously. But when Wilson forced the staff to draw up the new policy, it really hurt business. I think a lot of the rules are unnecessary and silly," Cook said.

Advertising art director Stewart Williams said that the new policy has produced secretive and ambiguous advertising and that policy limitations have caused the newspaper to lose several local accounts.

"[Staff members] have had to come up with ways to hide what is being advertised. Instead of advertising a drink special our ads are beginning to say things like 'secret event Thursday night' or 'surprise special.' We've lost some big accounts from local bars because of the policy," Williams said.

Students at the University of Scranton experienced similar problems when students placed an advertisement in their newspaper, The Aquinas, highlighting the staff's annual fundraiser. Nicknamed "The Basket of Cheer," the fundraiser involved raffling off a basket of alcoholic beverages donated by ten local bars. Maria Ferranti, the paper's editor in chief, said that the advertisement was clearly directed toward students of legal drinking age.

"The event was a tradition, something that was advertised before. But the administration felt that it encouraged irresponsible drinking, though, so around November we were instructed to come up with some kind of advertising policy that would distinguish between persuasive drinking advertisements...and direct alcohol ads," Ferranti said.

The school administration rejected the staff's first draft of an alcohol advertising policy. Ferranti says that she felt the administration was unwilling to give *The Aquinas* significant responsibility.

"The administration felt that we'd been given too much responsibility. They rejected our advertising policy because of this, and because they had some ideas of their own about what should and should not be permitted. They did say that our policy was a good start," Ferranti said.

Ferranti added that the school's vice president of student affairs
Congressional bill proposes ban on tobacco ads

WASHINGTON, D.C.—Provisions in a recently proposed Congressional bill called the “Tobacco Product Education and Health Protection Act of 1990” could prevent students from advertising certain products in their newspapers.

The new bill, introduced in February by Rep. Jim Bates (D-Calif.), would prohibit the advertising of tobacco products in publications “directed primarily to those under 21 years of age, including school, college, or university media. . . .” A publication is said to be directed toward minors if five percent of its readership is under 21.

The bill also includes limitations on tobacco advertising within 500 feet of educational establishments normally used by those under 21.

Barry Lynn, the American Civil Liberties Union’s (ACLU) legislative counsel, said that the bill’s restrictions violate basic First Amendment rights.

“The bill, in itself, seems ridiculous and dangerous. Popular magazines like Sports Illustrated and Rolling Stone are considered to be targeted at minors. Yet we know that a wide range of people of all ages read these magazines,” Lynn said.

“The ACLU is opposed to the bill for the basic reason that it interferes with press freedom. [The bill] is leaving the decision of determining readership of all mag-

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magazines to the federal government. That's way too much discretion and power of judgement on their part."

Lynn added that the bill also violated First Amendment rights by allowing the government to determine which advertisements a student publication may display and which it may not.

"The ACLU certainly does not agree with the substance of these advertisements, but right or wrong, we have to defend the right to advertise," he said.

Gloria Freeland, the president of College and Newspaper Business and Advertising Managers (CNBAM), expressed concern over the idea that government might take editorial control out of students' hands.

"It [tobacco] is a legal product and tobacco advertisers have the right to advertise in any newspaper. I don't think that student newspapers will be economically hurt by a ban on tobacco advertising. I think the damage would be in taking these [content] decisions out of student's hands," Freeland said.

The ACLU is also fighting a related bill, introduced by Sen. Edward Kennedy (D-Mass.), which would allow individual state governments to control the size, color and prominence of health warnings placed in or near tobacco advertisements.

"If this is allowed to go on, health warnings would take up space that paying [advertisers] might use," Lynn said.

Despite the Bates bill's sponsors, which include 10 House members, Lynn is confident that the House bill's First Amendment implications will halt its passage.

"The ACLU is hopeful and confident that the bill isn't going to go any further than it has the last two times it's been introduced during the last two congressional sessions. It's already died twice," he said.

Lynn attributed the ACLU's success to the congressional support received from government coalitions, private interest groups and individual testimony.

The American Advertising Agency Association (AAAA) is also working against the bill's passage. According to Hal Shoop, executive vice president of the association, these regulations ignore the goals of most effective advertising by controlling the place and amount of space such companies are allowed for their advertising. Shoop said that the AAAA's biggest concern is the more active bill, introduced by Sen. Kennedy. If passed, Shoop said that the bill's regulations would totally stifle companies freedom to advertise.

"Kennedy's bill is the tough one. It's a very active bill, more so than Bates'. First, the federal government was given the authority to set standards for health warnings. The federal government was very specific about them," Shoop said.

"Then the Kennedy bill comes along and says that nothing in this act shall prevent state and local governments from adding additional restrictions. State governments are given far too much power, and it infringes upon companies freedom to advertise effectively."

Shoop said that the AAAA is worried about the unconstitutionality of the bills, and emphasized their relation to the freedom to advertise in student publications.

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**Gay Ads**

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McGuire said he agreed with Watson's decision as well as the restrictions the principal placed on students' First Amendment rights.

McGuire resigned his position after the incident, expressing concern over local reaction to the ad and told the Washington Post that he felt community advertisers would shy away from publishing in a paper with the gay advertisement.

"What sort of position do we want to have in the community? The idea of being associated with gays and lesbians, it bothers me," McGuire said.

"The Hazelwood ruling is law, and I respect that. I believe the [original] decision was fair. If the school is acting as the paper's publisher, then they have a say in what goes into it," McGuire said.

McGuire said that his own beliefs regarding the paper's advertising opposed editor Margie Brown's more liberal approach.

"The original decision was based on homophobic attitudes. I think running the ad reflects a better attitude toward free press." editor Margie Brown

"Personally, I don't think that it's appropriate to run an ad displaying sexual behavior. Also, as business manager, I think it would wreck havoc on the paper's advertising section. I'm sure that Margie will give you an ear full of the opposite viewpoint. We disagreed on the matter. I know many of the staff members agreed with Margie's point of view," he said.

Brown said that the principal did not have a valid reason for censoring the ad and defended student rights to free speech.

"You can't allow some ads to run and not others. It's censorship. The ad was not inappropriate by any standards and I'm really happy it's going in the paper," Brown said.

"The original decision was based on homophobic attitudes. I think the decision to run the ad reflects a better attitude toward free press — not the newspaper's attitude toward homosexuality."
NEVADA — A federal court of appeals has upheld the right of a public school district to ban pregnancy-related advertising from school-sponsored student publications because the publications were not “public forums” and the regulation was “viewpoint neutral.”

In an October decision in Planned Parenthood of Southern Nevada v. Clark County School District, 887 F.2d 935 (9th Cir. 1989), the U.S. Court of Appeals for the Ninth Circuit found that Clark County’s refusal to publish advertisements for Planned Parenthood in its school publications is not unconstitutional. The court affirmed an April 1988 ruling of a federal district court in Nevada in which the court said the then-new Hazelwood decision required it to rule in favor of the school district.

But in upholding the ad ban, the court pointed out some limitations in the control school officials could exercise over student publications under the Hazelwood decision.

A central issue on appeal involved what type of “forums” existed in the school district’s publications. Publications that have been designated “by policy or practice” as “public forums” or “forums for student expression” are accorded the strongest First Amendment protections and were exempted from the limitations of the Hazelwood decision. The court said the forum status of the student publications at Clark County was a question of law that it had to determine.

However, the court found that the school district had not created public forums in its publications. The court compared Clark County’s publications to the student newspaper involved in the Hazelwood case and said it found many similarities.

The school district’s policy “invests principals with broad authority and discretion to control the content of advertisements appearing in these publications,” the court wrote. The fact that production of the publications was part of the district’s curriculum also demonstrated to the court that the district did not show “a clear intent to create a public forum with respect to its newspapers and yearbooks.”

Given that the district’s publications were not public forums, the district could place restrictions on their content if they were “reasonable and viewpoint neutral,” the court said.

Because the court found that the ban was against all pregnancy-related advertising and not specifically directed at Planned Parenthood, and because it said the school had an interest in remaining neutral on the subject of family planning, it found the restriction permissible.

Despite the fact that the advertising restriction was upheld by the court, the case raised some important safe harbors for student publications suffering post-Hazelwood censorship. First, the court left open the possibility that a publication which had been designated, by school policy or practice, as a forum for student expression would be free from the restrictions of Hazelwood. The court also made clear that even for non-forum publications, school officials could only censor when they could show that their restrictions are not intended to censor particular viewpoints.

But attorneys for Planned Parenthood still believe the decision leaves much to be desired. They have asked the court to rehear the case and have initial indications that the court might be receptive to their request.

“It is our concern and belief that there are certain First Amendment issues that the appellate court failed to acknowledge here,” Mark Brandenburg, attorney for Planned Parenthood, said.
NEW YORK — Administrators have less editorial control over student newspapers that are created outside of the classroom, a U.S. district court judge ruled in November, freeing some extra curricular publications from Hazelwood's grasp.

Michael Romano, as the former faculty adviser of Port Richmond High School's student newspaper, is preparing to claim that the paper is a “public forum” for students, which would further distinguish the case from Hazelwood. He awaits a hearing for his lawsuit against the school district.

The Crow's Nest adviser filed suit against school district officials when he was removed from his adviser position by principal Margaret Harrington in 1984.

Romano was reassigned when the newspaper published an editorial by a student journalist denouncing the move to create a federal holiday on Martin Luther King Jr.'s birthday, without running opposing editorials. Harrington said that Romano had not demonstrated "balanced reporting."

Romano sued on behalf of the student reporters, claiming that his removal prevented them from exercising their rights to free speech.

U.S. District Judge Raymond J. Dearie ruled on two occasions that administrators have less editorial control over The Crow's Nest because the paper does not fit Hazelwood's description of a curricular activity. Dearie's ruling stated that the student newspaper in Hazelwood was "taught during regular class hours..." The only students who wrote for and edited [Hazelwood's newspaper] were those who elected to enroll in Journalism II. For their efforts, the Journalism II students received both academic credits [and] a grade.”

His opinion in Romano v. Harrington said that the editorial control by school officials allowed in Hazelwood applied only to newspapers that are part of the school's curriculum.

The Crow's Nest was produced independent of class, rendering it an extra curricular activity, the court said. Dearie denied the school district's request for a dismissal of the case, and ordered it to go to trial. No date had been set as of press time.

Despite Dearie's ruling, the Hazelwood decision could still affect Romano's case. Recently, the case was referred to Judge Spatt who, Romano feels, may decide that Hazelwood covers all student publications, curricular as well as extracurricular. Romano said he will remain optimistic unless the case is appealed to a higher court.

"If Spatt's views are anything like Dearie's, we're all set. Should the case be referred to a higher court, I'm afraid that either it will never receive attention, or that Hazelwood will be heavily relied upon," said Romano.

Romano said that his attorney, Paul Janis, will also try to prove that the newspaper was in fact a public forum. If Romano can prove that the student newspaper, unlike the one at Hazelwood East High School, was a public forum, another key element could loosen the decision's hold on Port Richmond High School. Since the Hazelwood definition of "public forum" remains vague, Janis said the judge could likely rule in Romano's favor.
Free press laws draw support
State bills receive committee attention

COLORADO—If Sen. Pat Pascoe (R-Denver) has her way, students will be enjoying greater press freedom in Colorado's public schools by next fall.

The state's student free press bill, introduced by Pascoe, passed both the Senate and the House of Representatives during the 1990 legislative session. Having received minor changes in the House Judiciary Committee, the bill was assigned to the House-Senate Conference Committee for approval.

Fran Henry, a board member of the Colorado High School Press Association, said that the bill's overwhelming passage in the House committee by a vote of 42-21 was the result of traditional "grassroots lobbying" by the bill's cosponsors Sen. Dennis Gallagher (R-Denver), Rep. Jeanne Adkins (R-Parker) and the Colorado High School Press Association.

"We really worked together on this one," Henry said. "It was one of the most educational experiences we've ever had," Henry said.

Henry added that the groups were continuing to notify Colorado schools to draw support for the bill.

"We haven't given up the ship yet," she said.

HAWAII — Despite repeated efforts by Sen. Norman Mituguuchi (D-Pearl City) to draw support from high school journalism students and newspaper staffs throughout the state, Hawaii's student free press bill died after its initial reading in the Senate Education Committee.

Mituguuchi reintroduced the bill in January of 1990 after a similar version passed both the Senate and the House of Representatives last year by overwhelming margins, only to be vetoed by Gov. John Waihee during the 1989 session. Waihee openly admitted that he supported the Hazelwood decision.

The Hawaii Department of Education's "neutrally supportive" stance on the bill last year weakened further with this year's reintroduction, according to a press agent for Mituguuchi. Stafford Nogatani, the administrative assistant of the Department of Education, said that he felt the bill was "not a necessity" and that student freedom of expression was already sufficiently protected by existing legislation.

Levin planned to reintroduce the bill with amended language this session. The original bill died in the House Education Committee last summer when the legislative session ended.

According to Dick Pierce, a spokesman for Levin, the bill was stalled during the 1990 session because of the number of bills pending in various house committees and the lack of co-sponsorship.

"But our biggest problem with this bill has been the number of bills that have been ready to be introduced for a long time. There are 132 bills that Levin must review and reduce to 50 bills which are eventually heard. Hopefully, the student freedom of expression bill will be one of those bills," Pierce said.

Pierce added that without supporting sponsorship, and favorable testimony, the bill may never be moved through the legislative system. Pierce indicated that support had dwindled from several sponsors of last session's bill, such as the Illinois Press Association.

"Several of the sponsors of last year's bill are no longer as supportive this session. We really need other representatives to co-sponsor the bill. I also think the bill's success is going to depend on students taking the initiative and drawing support from other areas in Illinois. I think some important areas to gather support in are near colleges — for instance Dekalb, Rockford, and Champaign," Pierce said.

Pierce said that Levin had not given up on the bill, and hoped that somehow the bill would still, with its newly adopted language, be read and scheduled for committee hearing before the end of the legislative session.

ILLINOIS — Time constraints and lack of sponsorship could prevent Illinois Rep. Ellis Levin's (D-Chicago) student freedom of expression bill, House bill 1008, from passage this session.

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Free press bills

KANSAS — Despite the efforts of the Kansas Scholastic Press Association, student freedom of expression bill, House bill 2234, died in the state Senate Education Committee in March.

The bill, originally introduced by Rep. Gary Blumenthal (D-Merriam), passed the Kansas House of Representatives in 1989 by a vote of 99-26. The bill was referred to the Senate Education Committee where it was carried over to the 1990 legislative session. Despite the support of several Kansas press groups, the bill did not receive a hearing, and died in the committee.

Executive Secretary of the Kansas Scholastic Press Association Jackie Engel said she could not understand why the bill was not passed.

"Every effort we put forth, every person we talked to — all told us the bill was a sure thing. The chairman of the Senate Education Committee, Joe Harter, even said that he was sure the bill would pass. I was shocked," Engel said.

Engel said that although the bill’s supporters were disappointed, student journalists would inevitably pay the price of the committee’s negative response.

"It doesn’t really matter how disappointed the Kansas Scholastic Press Association and others are. It’s going to be the students that suffer without free speech protection," Engel said.

The need for free press legislation did not die in Kansas, according to Engel. She said that several senators, including Sen. Lana Oleen (R-Manhattan), have expressed interest in reintroducing the bill in 1991. Engel said that the bill could have better luck under different sponsorship.

"The situation did have a bright spot. Sen. Lana Oleen could sponsor the bill next session. We haven’t given up hope and I do think the bill may have better luck as a senate bill," Engel said.

KENTUCKY — Kentucky’s freedom of expression bill lost its persuasive power in 1990 when the end of the legislative session prevented a committee hearing.

The student free press bill, House bill 304, introduced by Rep. Walter Blevins (D-Morehead), died after being posted in the House Education Committee on Jan. 25.

The bill remained dormant in the committee until the time period allotted for bill hearings ended in late March. Final weeks of the 1990 session are spent dealing with bills that have already received initial hearings.

Bruce Smith, a member of the House public information office, said that Blevin had no definite plans to reintroduce the bill in the 1992 session, which is when the legislature will next convene.

NEW JERSEY—Supporters of a student freedom of expression bill are optimistic about the bill’s chances this year.

The legislation was re-introduced into the New Jersey Assembly in January by Assemblyman Anthony Impreveduto (D-Hudson), after failing to get out of the Judiciary Committee in the last session. The bill is currently in the Assembly Education Committee.

Impreveduto’s aide Mary Walker said the bill is well supported in the Assembly where she expects it to easily pass when it gets out of committee.

The Garden State Scholastic Press Association is a supporter of the legislation. President John Tagliareni is confident about the bill’s future.

“I’m definitely optimistic. It’s finally getting to a point where its worked its way through the bureaucracy,” Tagliareni said.

OHIO — Supporters of student freedom of expression legislation are meeting with some opposition in their efforts at getting House Bill 649 out of committee and onto the House floor.

The bill, introduced by Ohio Rep. Judy Sheerer (D-Shaker Heights), in September, has been sitting in the House Education Committee since it was assigned there in January.

Lora Lynn Kadell, aide to chairman of the House Education Committee John Bara, said the chairman assigned the bill to a subcommittee in February after a hearing on the bill drew an unexpectedly large crowd of people who wanted to testify.

"With a bill like this that’s very complex, and [when] a lot of people want to testify, they put [the bill] in a subcommittee that can make recommendations to the committee based on what they’ve heard," Kadell said.

As of March, the subcommittee had not held any hearings on the legislation.

Angela Parks, president of the Ohio Coalition for First Amendment Rights, said the coalition has been working to address some of the problems that the Ohio School Board Association has raised with the legislation. Parks said the coalition, a statewide organization of educators, students and professional journalists, discussed the grievances of the association and decided to recommend some possible changes in the legislation to Sheerer.

Among the school board’s complaints was the issue of who would have the power to stop a libelous story from being published under the proposed legislation. The coalition recommended a change in the legislation that would require the adviser to bring questionable stories to a media attorney for approval.

Parks said the biggest problem the coalition faces is in educating people opposed to the legislation that journalism students are not dangerous when they have press freedom.

“We realize we have a lot of educating to do because there are a lot of people who don’t know what scholastic journalism is all about,” Parks said.

The coalition has distributed copies of student publications to skeptics in an attempt to convince
them that their fears about student journalists are incorrect, Parks said.

The Ohio legislature may not meet in the summer months and the coalition realizes that the legislation may be put on hold a little longer if it does not get out of committee before then.

"It's probably going to take a long time [to get the bill through the legislature]," Parks said.

However, Sheerer's aide, Grace Moran, believes that Sheerer is dedicated to seeing the bill pass.

"She really is a defender of the Constitution," Moran said. ■

RHODE ISLAND — A state senator re-introduced student freedom of expression legislation this February for the third time, saying the bill needs outside support to become law.

"I don't know that we're going to be very successful unless there's some support from students and teachers groups," Sen. Sean Coffey, D-Providence, said.

The New Jersey chapter of the American Civil Liberties Union supports the legislation and is working with Coffey in organizing teacher and student support for the bill, according to its executive director, Steven Brown.

Coffey said that although he is not optimistic about the bill's chances, he wanted to give supporters of this type of legislation an opportunity to support it.

The bill, which has been in the Senate Judiciary Committee since it was introduced in February, was first introduced in 1988 when it died in the House after passing in the Senate. In 1989, Coffey sent the bill back to the Senate Judiciary Committee where it died rather than risking defeat on the Senate floor. ■

WASHINGTON — Student freedom of expression legislation died in the Senate Committee on Education in early February.

The Washington Journalism Education Association, a state group of journalism teachers and advisers, was a major supporter of the bill. Fern Valentine, a former president of the WJEA, said that the bill was not turned down by the committee, but the committee would not send the bill to the senate floor until some changes are made.

The bill read in part, "School officials shall not be held responsible in any civil or criminal action for any expression made or published by students, provided the school officials have not interfered with the content decisions of the students."

Valentine said that some committee members wanted to know who would be responsible for information in a student publication.

The WJEA is planning to do some research on the bill and reintroduce it next year in both houses of the legislature.

The bill was also supported by the Student Press Law Center, the National Council of Teachers of English, the Washington Art Education Association, the Pacific Lutheran University Department of the Arts and the Issaquah School District. The committee received one letter of opposition from the Everett School District superintendent. ■

WISCONSIN — Missed deadlines and overscheduled committee agendas forced two separate anti-Hazelwood bills to remain in limbo and eventually die when Wisconsin's legislative session officially ended on March 22.

After passing the Assembly by an overwhelming majority of 87-10, student freedom of expression bill 699, introduced by Rep. Peter Bock (D-Milwaukee), advanced to the Senate floor. The Senate scheduled the bill for discussion this spring, but time constraints prevented it from being heard.

Bock's bill had received several amendments in the Senate, paring its protected freedoms down to written communication. According to Bock’s assistant, Brad Kelly, the committee omitted protection for symbolic expression and peaceful assembly.

"Apparently, some constituents were concerned with freedom of religious expression as well as symbolic activities of various other groups. I think many people would have liked to keep it as simple, clean, so they amended it to include only written communication," Kelly said.

A similar bill, Assembly bill 638, introduced by Rep. Marsha Coggs (D-Milwaukee), and co-sponsored by Bock, died in the House Committee on Colleges and Universities before being voted upon. The lack of attention to the bill was due to the large number of other pending bills," Kelly said.

Kelly said that Bock has definite plans to reintroduce his bill in the January 1991 session. ■
CAMPUS CRIME

Campus crime gets attention
Fed. and state bills push for information

ASHINGTON, D.C. — On March 14 the Post Secondary Education Committee of the House of Representatives gave a persuasive push to legislation that would require universities to inform the public about crime occurring on campuses.

The "Crime Awareness and Campus Security Act", House bill 44, introduced by Rep. William Goodling (R-Pa.), and a Senate bill 1925, introduced by Sen. Arlen Specter (R-Pa.), both give the verbatim authority to withhold federal funding from colleges and universities that fail to publically report campus crime statistics. Two bills are identical and comprehensive. In addition, Sen. Albert Gore Jr. (D-Tenn.) introduced a similar campus security bill in November based on the Tennessee law.

There are several states with similar crime statistics bills pending in various committees. Both bills are not uniform," said Goodling, and do not "cover all the bases." He added that some states do not require "timely updating" of crime statistics.

Goodling's bill received public testimony during a hearing held the House Post Secondary Education Committee. Testifying in favor of the bill were members of the American Council on Education, the International Association of Campus Law Enforcement Administrators, college presidents, and victims of campus violence and their families.

While those testifying before the committee panel unanimously recognized the need for greater campus security and an informed public, some expressed concern about areas of Goodling's bill. Robert Atwell, speaking on behalf of the American Council on Education, said that one of his concerns was the bill's framework that the statistical information released by colleges should be publicized in light of community crime rates, and that the definition of campus be clarified.

"Campuses are mirrors of society, and I think that these statistics need to reflect that relationship," he said.

Student victims and their families who testified at the hearing said they had felt "tricked into the college" by pleasant looking brochures that highlighted the college's positive aspects but failed to inform them of the darker side of campus crime. One student, Dana Getzinger, who was the victim of a violent crime at the University of Georgia, said that reporting crime statistics would help alleviate the myth that students are somehow protected from crime when they enter a college campus.

"Students are not aware of crime. Parents are not aware that their kids are at risk at college. The problem must be known. We have a right to know about crime and we are defenseless if we do not know," Getzinger said.

Connie and Howard Clery, the parents of Jeanne Clery, who was raped and murdered while attending Lehigh University in Pennsylvania, told People Magazine that they were drawn to Lehigh University in Pennsylvania in 1986 first to discuss the bill," said Jester, who introduced the bill in January of 1990.

Jester said that the Clery's offered suggestions on the bill's content and urged her to use Pennsylvania's campus security law as a guideline. Jester said that she suggested several clarifications on the bill to the Education Committee chairman.

A representative from the University of Delaware was also contracted to "offer suggestions to make the bill more applicable to Delaware's crime problems — to help make the bill more practical in this state," Jester said.

Jester said she hoped that the suggestions she received from these sources would produce a satisfactory substitute campus crime bill.

"With some amendments I can't see the bill having any problems. There is general interest in the bill, and I think with more specification of the practical procedures and processes of reporting campus crime, we could get it passed before the session convenes on June 30th," Jester said.

INDIANA — Legislation that would force colleges and universities in Indiana to release information about crime on campus died in the House Committee on Education in January without having a hearing.

DELWARE — The need for practical crime statistics reporting by state colleges spurred Rep. Katherine Jester to amend her crime statistics bill. In doing so, Jester consulted the Pennsylvania campus security law, a representative for the University of Delaware and the parents of a campus victim.

"When the bill's hearing was postponed in the House Education Committee because there were not enough members present to form a majority, I knew I would have time to amend the bill and maybe help its chances. I met with the Clery's, whose daughter was murdered at Lehigh University in Pennsylvania in 1986 , first to discuss the bill," said Jester, who introduced the bill in January of 1990.

Jester said that the Clery's offered suggestions on the bill's content and urged her to use Pennsylvania's campus security law as a guideline. Jester said that she suggested several clarifications on the bill to the Education Committee chairman.

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SPLC Report

Spring 1990
Esther Wilson (D-Porter County), the main sponsor of the bill, said she plans to re-introduce it next January.

Wilson said the bill is needed to help inform parents and students about crime on college campuses, but the committee was afraid it would shed a negative light on the colleges and universities.

She said the committee decided it could not spend time on the bill during this session. In the Indiana House, short and long sessions alternate every year. This year is a short-session year. Short sessions are primarily intended to address important budgetary issues, although other legislation can be introduced, Wilson said.

Wilson said the committee recommended that she publicize the bill this summer before re-introducing it in January 1991.

MISSOURI — Efforts to pass a campus security bill in Missouri continue despite the close of the 1990 legislative session on May 18.

Missouri’s campus crime statistics bill, House Bill 971, introduced by Rep. Bonnie Sue Cooper (R-Kansas City), was introduced in the House Higher Education Committee on Jan. 15 and received two readings before being posted in a House subgroup for further study.

The bill’s “most supportive period,” according to Cooper’s legislative spokesperson, Libby Makay, occurred during March when hearings were held on college campuses throughout the state. Makay said that there had been no opposition to the bill.

Despite the proposed bill’s positive public response, Makay believes that time may force the bill to be overlooked in Missouri’s spring session.

“With the session’s end on May 18, I just can’t see the bill being voted on in the House. It has nothing to do with the bill’s content or the amount of support it is receiving,” Makay said.

Cooper said that should the bill fail to receive a vote before the end of the 1990 session, she “certainly does plan to introduce it again.”

NEW YORK — Two separate but identical bills, introduced or discussed during New York’s 1990 legislative session, brought attention to the need for crime statistics information from college campuses.

Senate bill 1893, introduced in February of 1989 by Sen. Kenneth LaValle, (R-Port Jefferson), contained the same essential requirements as Assemblyman Stephen Saland’s (R-Poughkeepsie) bill, introduced in January of 1990. Both contain regulations requiring colleges and universities to compile campus crime statistic reports to be released to the public upon request.

Both bills, following initial readings, were set for study in various subcommittees. LaValle’s passed the Senate Higher Education Committee and is currently scheduled for a full-floor hearing in late May. The bill’s outlook is more promising than Saland’s bill, which has been inactive since its initial reading in the Assembly’s Higher Education Committee.

New York’s legislative session ends in late June.

OHIO — The only opposing force to Ohio’s campus crime bill was time. After the bill passed the House College and Universities Subcommittee with a unanimous vote, legislative action stalled in the House Education Committee.

Introduced by Rep. Timothy Greenwood (R-Toledo), during the 1990 legislative session, campus crime bill 733 endured only minor amendments before its assignment to the House Education Committee.

According to Greenwood’s legislative intern, Cathleen McComas, the bill’s only alterations included the clarification of terms such as “campus area” and “student housing facility.” The amended bill also included a uniform date on which all campuses must update and release crime statistics information.

“I know Mr. Greenwood was very happy that changes in the bill were only minor. Basically the amendments just helped clear up any questions or ambiguities surrounding the bill. We ended up

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with a substitute bill that was virtually the same as the original bill," McComas said.

Time, however, worked against the bill after it was assigned to the House Education Committee for further hearing. Ohio's legislative session ended in mid-April and the bill died without a hearing.

McComas said that Greenwood has every intention of reintroducing the bill in the next legislative session.

"Mr. Greenwood still thinks the bill is very important and I can't see him not introducing it next session. I hate to say the bill 'died' in committee. No one opposed it," McComas said. ■

VIRGINIA — With a campus security bill awaiting Gov. Douglas Wilder's signature and a similar bill pending in a legislative committee, college administrators in Virginia may soon be forced to reveal campus crime statistics.

Senate bill 425, introduced in January by Sen. Moody E. Stallings Jr. (D-Virginia Beach), requires colleges to release campus crime statistics to the public. The bill soared through both the House and Senate with nearly unanimous approval in under three months. Gov. Wilder's final approval would make the bill state law.

Virginia attorney and counsel for Security on Campus Inc., Frank Carrington, who testified in favor of the bill, said he did not foresee any objections by Wilder to the bill's content and speculates that the bill will be approved before summer.

"The bill is very short. It gets right to the point. There wasn't a whole lot to object to," Carrington said.

In fact, the bill is a condensed version of a more comprehensive campus crime statistics bill, House bill 1130, currently being held over for hearing until the 1991 session. The bill was introduced by Del. Harry Purkey (R-Virginia Beach). Carrington said that the bill had been "side tracked in the system" because of proposed amendments regarding the bill's clarity and language. Although he admitted that Stallings bill is a "watered down version of H.B. 1130," he said that the bill's passage would be an important step toward "undoing the Buckley Amendment."

"Some bill is better than no bill. It's short, but it is a start, and a step in the right direction," Carrington said. ■

WASHINGTON — Despite the House Appropriations Committee's legislative halt of a campus security bill, colleges in the state will soon be required to release crime statistics to the public.

After Sen. Peter von Reichbauer's (R-Tacoma) campus crime bill, died in the House Committee in February, a portion of it was adopted in a senate bill that recently passed both legislative branches and is expected to receive Gov. Booth Gardner's final approval. The adopted portion requires colleges and universities to release annual campus crime statistics.

Crime statistic regulations were attached to a bill that provides money for higher education programs such as educational opportunity grants and university studies.

Staff members in the House said that the final bill included elements of many bills that had died in various subcommittees. ■

Student sues for crime reports

MISSOURI — The editor in chief of Southwest Missouri State University's student newspaper, The Standard, filed a lawsuit in federal court in January hoping to gain access to university crime records.

Traci Bauer, editor in chief of The Standard, is suing Paul Kincaid, the director of university relations and other university officials. She is asking the court to give her access to the records and $5,000 in damages and attorney fees.

Bauer filed the lawsuit when she was denied access to campus security department files dealing with an alleged rape on campus. She claimed the university was obligated to release the crime records under Missouri's open records law.

Kincaid told her the university could not release the files that she wanted because the Buckley Amendment prohibited it.

The Buckley Amendment, formally known as the Family Educational Rights and Privacy Act, is a federal law that requires schools to provide students access to files that universities compile on them and that prohibits schools from releasing student education records.

Some universities have used the Buckley Amendment to prevent campus police and security offices from releasing information about crimes saying they could lose federal funding if the records are made public.

The conflict between the Buckley Amendment and Missouri's open records law, if one exists, will be settled in court. The university has filed a motion for dismissal of Bauer's case. Bauer's attorneys began taking depositions in March.

Throughout all of the legal maneuverings, Bauer has had to contend with running The Standard.
CENSORSHIP

Students Close Paper at Geneva College
Pub. Board Decision Made in Response to Anti-Catholic Editorial

PENNSYLVANIA — Co-vedictorian Eric Dugan can credit himself with being editor in chief of two campus newspapers in the same semester following a controversial year for student publications at Geneva College.

Dugan produced an eight-page underground tabloid, The Last Word, following a Student Publications Board decision to close the regular weekly paper.

"This college is afraid of a free press and does not have any interest in living up to the standards of its publication policy."

Eric Dugan

for the remainder of the school year. Their decision was in response to an anti-Catholic editorial Dugan published in The Cabinet on March 23, a Friday.

Dugan editorialized "The Theology of the Pointy Hats," questioned papal authority to interpret scripture and likened Catholics to Jehovah's Witnesses and Mormons, based on their historical interpretations of the Bible. It went on to call the modern Catholic church "pagan" and "non-Christian."

The following Tuesday the student publications board called an emergency meeting and voted 8-2 to close the paper for the remainder of the school year.

An apology distributed by the board stated, "We regret that one of our publications was so offensive to the Geneva Community. One of the purposes of The Cabinet, according to its constitution, is to foster the application of Christian values...in the spirit of love, justice and responsibility that Christ showed in all his dealings on earth."

"We do not feel that The Cabinet editorial has lived up to this purpose." Dugan said he did not think there was anything wrong with discussing theological issues on the editorial page of a religious college newspaper. The Beaver Falls school is affiliated with the Reformed Presbyterian Church of North America. About 15 percent of its 1,200 students are Catholic.

"The college is afraid of a free press and does not have any interest in living up to the standards of its publication policy," said Dugan.

Geneva College President Joseph McFarland and Cabinet adviser S.S. Hannah said the school's policies only forbid an administrative move to close the paper. The student publications board has the authority to shut down any publication, they said.

"I think the student publication board's response is a measure of the reaction of the student body," said McFarland. "I think the system worked."

Under the terms of the agreement, Dugan retained his position and received his full salary as editor, but was not allowed to publish any more papers. Several weeks after the editorial he raised the money to put out an eight-page underground paper, The Last Word.

"I was determined to go underground from the upswell of people supporting the idea," Dugan said.

The Last Word, according to Dugan, contained two full pages of letters — both pro and con — about the editorial and the closing of The Cabinet. It also included an article exploring what the college needs to do to survive in the next ten years, he said.

McFarland said Dugan sought out controversy throughout the year.

"He is a very gifted young man, very intelligent and articulate. But he seems to have lost some of the balance off his wheel this last semester and I hope he regains it," McFarland said. "He created quite an atmosphere towards himself and seemed to thrive on persecution."

Dugan said he ran a far more aggressive paper than previous editors.

"I changed things very radically and it threw some people for a loop. Sometimes it was difficult for the staff to adjust," Dugan said.

In the fall a group of students who disagreed with Dugan's editorial policies split from The Cabinet to put out an underground paper called The Closet.

"He's a very gifted young man.... But he seems to have lost some of the balance off his wheel this last semester and I hope he regains it...."

Joseph McFarland

"I think it was probably the first time in the history of any college that students put out an underground newspaper that was pro-administration," said McFarland.

Scott Monzma, one of two students who published The Closet, told The Beaver County Times that editorial disagreements led students away from The Cabinet.

"Eric was not publishing certain letters to the editor that didn't agree with his editors, or if he did publish them, he would put a long rebuttal at the end, totally ripping the letter to shreds," Monzma said.

Dugan said he added rebuttals to student letters in an effort to teach students to "think critically."

With its controversial editor graduated, The Cabinet will be published as usual in the fall, Hannah said.
Buckley used to conceal crime
Confusion over statute creates access barrier

Crime on college and university campuses is an unfortunate reality. Rape, robbery, assault and even murder are crimes that too few college students realize happen to their peers each year.

The college and university student press takes seriously its responsibility to provide news and information about life on campus, including information about crime, to student, faculty, staff and community readers. However, many school officials today cover up crime information that reveals this dark side of campus life. They attempt to thwart the efforts of student reporters and editors by routinely denying access to campus police and security reports.

Each of the 50 states and the District of Columbia has an open records or “sunshine” law that provides public access to many police incident reports and arrest records. When student journalists have taken their schools to court over access to the records of campus police and security offices, they have consistently won. Nonetheless, many colleges and universities continue to routinely deny access to this information. Since the 1989-90 school year began, the Student Press Law Center has received an average of three calls a week from college newspapers or other student news media that are being denied access to police/security reports.

For example, one college publication called the SPLC this fall to report that it had unconfirmed reports of three rapes that had occurred on campus since the start of school in August. However, when the publication staff approached the campus police office for records to confirm these reports, records that they hoped would allow them to warn their readers about the places and times that the rapes occurred, their request was denied. The campus police refused to either confirm or deny that the incidents had occurred and denied access to all police reports. They based their denial on a federal statute called the Buckley Amendment. The staff members of that publication expressed their frustration at being unable to do the job their readers had every reason to expect of them.

Colleges and universities across the nation are denying access to campus police reports claiming they are not covered by open records laws because of the Family Educational Rights and Privacy Act (FERPA), commonly referred to as the Buckley Amendment.

The Buckley Amendment Now

The Buckley Amendment was passed by Congress in 1974 to assure access by parents and students to student records and to prevent schools from revealing student records to others. The statute specifically provides that no federal funding will be made available to those institutions that have a policy or practice of revealing student education records in violation of the law. The fear of losing federal funding, coupled with the interest in presenting a picture-perfect campus image, prompts many schools to ban all public access to police records based on the Buckley Amendment.

Of course, the schools are presuming that “education records” should be defined to include campus police reports. Unfortunately, the text of the Buckley Amendment makes it difficult to determine the intent of Congress on this matter. And up to this point, no court has ever specifically interpreted the application of the federal law to campus police or security records. (The lawsuit filed by Traci Bauer against Southwest Missouri State University may be the first in that country to deal with the issue. See story page 18.)

The relevant portion of the Buckley Amendment, section (a) (4) (B) (ii), reads as follows:

The term “education records” does not include... if the personnel of a law enforcement unit do not have access to education records under subsection (b) (I), the records and documents of such law enforcement unit which (I) are kept apart from records described in subparagraph (A), (II) are maintained solely for law enforcement purposes, and (III) are not made available to persons other than law enforcement officials of the same jurisdiction;...

Initially, this section sounds as if it is attempting to exempt police records from being covered by Buckley. But trouble arises when one reads part (III), which suggests that law enforcement records will be excluded from the “education records” definition only when they are revealed to other law enforcement organizations. In other words, if campus police give access to an incident report, arrest log, etc., to anyone other than another police agency, the records would be “education records” under the law and could not be made public without the loss of federal funding, this interpretation suggests. An example of Congressional bill drafting at its most confusing, this section of the Buckley Amendment leaves little indication of what it is trying to do.

Common sense and two related court decisions may well indicate that such an interpretation is irrational. In 1986, The Independent Florida Alligator at the University of Florida in Gainesville sued
the university for access to campus police reports. The university refused to provide access to two specific incident reports which included the names of two students involved with crimes on the campus, relying on a state law very similar to the Buckley Amendment that stated, "Every pupil or student shall have a right of privacy with respect to the educational records kept on him." The school never used the Buckley Amendment itself as a justification for refusing access.

The court sided with the student newspaper, and in requiring the university to provide public access to police reports on that campus said, "Students' educational records such as test scores and aptitude tests are quite appropriately required by law to be kept confidential, but an individual's enrollment at a state university does not entitle him or her to any greater privacy rights than members of the general public when it comes to reporting criminal activity." 4

The Florida case is the closest there is to a definitive statement about access to campus police reports. In 1986, the Tennessee Court of Appeals held in a three-sentence decision that campus police records at East Tennessee State University were covered by the state open records law. 5 Once again, the university did not raise the Buckley Amendment in its defense. And in 1985, the Arkansas Attorney General issued an opinion that said campus security logs at Arkansas State University were public under the state's Freedom of Information Act.6

A recent decision of the attorney general of Kentucky took the opposite position. A reporter for the Louisville Courier-Journal had filed requests with officials at Murray State University for the records of the school's public safety office. After university officials denied the request, their decision was appealed to the state attorney general. On March 13, the attorney general ruled that the Buckley Amendment allowed the school to refuse access to campus security reports except when the request was for specific reports and the names of students at the school could be removed from those before access was provided.7

Although this decision, like that of the Arkansas Attorney General, does not have the legal affect of a court decision, the Kentucky opinion is the most recent "official" pronouncement on the issue.

Compounding the problem is the fact that the U.S. Department of Education, which has the responsibility for enforcing the Buckley Amendment, interprets the statute to allow schools to get away with such secrecy. The department says the language of the statute requires schools to deny access to campus police reports that identify individual students or risk losing their federal funding.8

Despite the Department of Education's interpretation of the law, thousands of colleges and universities routinely make campus police reports public. The department has yet to withdraw funding from any institution for doing so. However, when colleges want to hide the problem of crime on their campus, they find the Buckley Amendment a useful tool to justify their secrecy. And an increasing number of schools seem to be doing just that.

Solving the Buckley Amendment Problem

As crime increases on college campuses, the denial of access to crime records becomes a more significant problem. The legislation proposed in Congress in House resolution 3344 and its companion Senate bills (see story page 16) could play an important role in forcing colleges and universities to provide accurate information about campus safety. But periodic statistical reports will not solve the problem of inadequate information about campus crime. As the example of rape incidents referred to above points out, timely information about crime occurring on campus along with details regarding location, time and a description of known suspects can help protect potential victims in a way that year-old statistics cannot.

The long-term remedy to this problem, given the interpretation of the Buckley Amendment made by the Department of Education, will likely require an amendment to the Family Educational Rights and Privacy Act. But until such time that Congress decides to clarify the Buckley Amendment, those seeking access to campus police/security reports are not without recourse. It is important to emphasize that no court has ever held that the Buckley Amendment does cover such documents, and in three states, legal authorities have said campus police records are open under state freedom of information laws. Certainly, those seeking access to such records in Tennessee, Florida and Arkansas should rely on their own state law to demand access and they will likely continue to be successful in courts in those states. In

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Buckley Amendment

other states, student journalists denied access should not hesitate to threaten and pursue court action when their state open records law seems to cover the documents of a public college or university. The Student Press Law Center can provide important support in such a situation. Student journalists would also be well advised to publicize the denial of access to documents relating to crime on campus to the widest possible audience. State and federal legislators, parents and prospective students can be effective allies in the battle for campus police and security reports.

One thing that the Student Press Law Center's 16 years of experience in assisting the college press make clear: left to their own devices, many colleges and universities will continue to sweep campus crime information under the rug, thus adding to the safety risks that college students face.

1. 20 U.S.C. sec. 1232g.

Schools pressured to open info

Freedom of information lawsuits waged against colleges

ARIZONA — Two Arizona newspapers are fighting a lawsuit filed by the Arizona State University Board of Regents claiming the lawsuit is invalid because the decision to file it was made at an illegal meeting. The papers claim that because notice of the meeting was not posted 72 hours in advance, as the state's open meetings law requires, the meeting was in violation of the law.

The lawsuit was filed by the university in May 1989 to prevent the Arizona Republic and the Mesa Tribune from publishing a list of 17 finalists for the Arizona State University presidency. The two papers responded with a counterclaim requesting the case be dismissed.

The Republic published the list last June. However, both newspapers have continued the legal battle in an attempt to establish that the resumes of the 17 finalists are public records and should be made available.

ARIZONA — An Arizona apartment owner has filed a lawsuit against Arizona State University for refusing to supply the names of freshmen applying to the school. The apartment owner, claiming the university's refusal to supply the names is a violation of the state's open records law, has used the lists to solicit tenants in the past.

The university claims that releasing the lists would violate the privacy rights of the students who have applied to the university, but who may not actually attend the university.

INDIANA — Officials at Indiana State University released the results of a survey concerning racial attitudes on campus in January after originally refusing to release their findings to the school's student newspaper, the Indiana Statesman.

The university used public funds to conduct the survey, that officials said in December would be released eventually. The Indianapolis Star reported on Dec. 23, 1989, that the university's director of journalism, Sandy Barnard, said the next step would be for a newspaper to sue the university. She said this was a "real possibility in this instance."

The conflict was the result of a misunderstanding about university policies, according to Elizabeth Calman, director for student publications.

"This has forced the university to look at what documents they will release and what meetings will be open," Calman said.

Calman said the Indiana legislature should examine the state's open meetings and open records law because she feels it is not clear about requirements for access to university records and meetings.

MICHIGAN — Michigan State University's student newspaper, The State News, has joined with several other news organizations in a lawsuit against the university.

The suit, filed in January, contented that university trustees met to discuss hiring George Perles as athletic director in violation of the Michigan Open Meetings Act.

The suit, filed by the Lansing State Journal and supported by Booth Newspapers Inc. and The Detroit News, claims that the trustees met in small groups without reaching a quorum so the law could be avoided. The State Journal has asked the court to force the MSU board to pay attorney and court costs and for injunctions to prevent future private meetings.

OHIO — Discussion of budget cuts that could affect employee salaries in the Chillicothe City School district must be public...
Auburn paper granted records of investigation

ALABAMA — Through a court order that required the release of university reports, students at Auburn University proved that "special privilege" cannot conceal administrative corruption.

On March 29, Lee County Circuit Judge James T. Gullege granted student reporters for the Auburn Plainsman newspaper access to reports investigating the alleged misconduct of a university administrator. Gullege's judgment answered the students' request for information filed nearly a year ago.

Suspecting that the director of Auburn University's alumni association, Jerry Smith, had misused college funds, staff writers for the Plainsman asked the school's board of trustees to release documents compiled by King and Spalding, an Atlanta law firm hired to investigate the allegations. After the board refused to release the documents, students filed a formal complaint in court.

University attorney Thomas D. Samford told the newspaper that the reports were "privileged" and were withheld to protect the client-attorney relationship between the board of trustees and King and Spalding.

Plainsman editor Page Oliver said that staff reporters suspected that the documents held information about the mishandling of a large amount of money donated to the school by Auburn alumnae Lois Huff.

"We knew the basics of the story — that Jerry Smith had been put in charge of Huff's estate — a large amount of money," Oliver said.

"We felt that we had a right to know what was going on with this money. Of course we wanted the reports, and we wanted a story."

According to Judge Gullege's decision on March 29, the board of trustees waived its right to classify the documents by giving them to Jerry Smith for his personal use shortly before he resigned in the spring of 1989. Since the reports were no longer considered private, Gullege ordered their release to the Plainsman staff.

Oliver said that the court's decision could help students in other areas where information is not readily provided. She noted that the staff has had problems obtaining campus police reports.

"It's always been hard to get any information from the campus police. The problem we've had is that because of the large turnover of the Plainsman's staff, it's been really hard to keep accurate accounts of these incidents. When we really need info, we never have enough evidence to take it to court," Oliver said.

Gullege granted the university a 30-day period to either release the King and Spalding reports or appeal his decision. Oliver suspects that the board of trustees will appeal.

"They're going to try and protect themselves by tying up the courts with an appeal. They'll hold onto them for as long as they can," she said.
Court orders release of state medical reports
College newspaper demands records of campus doctor’s death

WEST VIRGINIA — Student journalists at West Virginia University in Morgantown obtained medical documents concerning the drug-related death of a university doctor through a lawsuit against the state medical examiner.

Reporters for the student newspaper, The Daily Athenaeum, were refused copies of autopsy and toxicology reports concerning the death of a university doctor, T.J. Cianciolo. Staff members filed a lawsuit against the state medical examiner based on West Virginia’s open records law after learning that the documents were given to a local paper, The Dominion Post.

State Chief Medical Examiner Irvin Sopher told the students that a court ruling requiring the release of the records to The Dominion Post did not apply to the public or to The Daily Athenaeum.

The Athenaeum obtained the reports through the doctor’s family the day before the pretrial hearing and offered to drop the lawsuit if the state medical examiner would agree to pay the paper’s legal fees. Clauses within West Virginia’s public records law allows the court to award a wrongfully denied party’s attorney fees. The medical examiner refused to pay the paper’s legal fees and the lawsuit went to trial on January 29.

Monongalia County Circuit Judge Robert Stone ordered the release of the medical reports to The Athenaeum, but only after expressing doubts, regarding the importance of the lawsuit. He questioned why students did not ask The Dominion Post to give them the documents.

Stone denied the students’ motion to obtain attorney fees based on his belief that the lawsuit was unnecessary.

In an editorial in The Athenaeum the next day, managing editor Ken Ward Jr. expressed mixed emotions regarding the case’s outcome. Ward complained that Stone’s suggestion that students obtain the requested documents from another newspaper belittled their journalistic rights. Quoting a statement made by the paper’s attorney, Tom Rodd, Ward called the request “unprofessional.”

“Allow me again to quote Tom Rodd: ‘It’s the same reason Macy’s and Gimbel’s don’t go to each other for information.’... To suggest that we should have asked them is to suggest that we should have to rely on them for access to our government. It is, indeed, to suggest that we are second-class citizens,” Ward said.

Ward added that he felt the judge’s comments during the trial destroyed the competitive spirit of journalism.

“The nature of good journalism, what I try to teach my student, is that getting information for yourself is important — not to rely on anything secondhand. That is what keeps journalism healthy and competitive. The comments made by Stone backseated that idea,” Ward said.

School athletes, directors scrutinized; Grad rates, documents to be released

TEXAS — The National Collegiate Athletic Association has implemented a policy requiring colleges to release student-athlete graduation rates.

The NCAA’s policy, which took affect immediately after its approval in a Dallas convention in January, prevents any division I or II institution, “team or individual competitor [from competing] in an NCAA championship, unless its chief executive officer provides in an annual report, on a form approved by the Council, the admissions and graduation-rate information specified.”

The required report, to be submitted to the NCAA national office each October, must include information involving college admission requirements, academic status of entering freshman athletes, and the number of incoming freshman athletes accepted to a university under special, student-athlete conditions. The report must also detail the academic status of undergraduate student athletes as well as disclose the number of student athletes graduating from the college.

A bill introduced by Senator Bill Bradley (D-N.J.), in Congress entitled the “Student Athlete Right to Know Act,” is scheduled for a hearing in 1990, and could extend similar regulations to all colleges and universities.

WISCONSIN — A Wisconsin Circuit Court found in January that applications and related documents for the positions of athletic director and head football coach at the University of Wisconsin at Milwaukee were public records and subject to disclosure under a Wisconsin public records statute.

The decision in the case, filed by the Milwaukee Journal, will have no affect on future similar cases, the court said in its decision. If the university appeals the case or becomes involved in a similar dispute in the future, then it can try to prove an overriding public interest in keeping the documents confidential, a defense that was not used in this case.
Duke journalists feel chill of censorship

NORTH CAROLINA — Students at Duke University in Durham felt censorship's chilly presence when two unrelated incidents prompted the removal of a humor magazine's editor and the verbal harassment of 13 newspaper reporters by the school's basketball coach.

Marty Padgett, student editor of the campus humor magazine The Jabberwocky, was fired in November by the Undergraduate Publications Board after printing two articles satirizing the life of university food service workers.

Publications Board head Mona Amer said that the articles "A Day in the Life: Kenny, the DUFs Worker," and "The DUFs Grammar Guide" were "racist, and [that] the Black Student Association (BSA) was obviously upset." Amer said that while she supported Padgett's right to free speech at first, she changed her mind when Marty refused to publicly apologize for the articles.

"In the beginning, I supported Marty, but everyone was so emotionally intense about the racism in the stories. I felt that asking Marty for an apology for printing the articles wasn't too much to ask," Amer said.

"He didn't apologize or attend any of the BSA functions we suggested he attend. We decided to fire him based on the fact that he was ignoring his responsibility to the public."

Padgett's removal as editor of the magazine occurred shortly after Duke University President H. Keith H. Brodie, M.D., ran a full-page advertisement in the student newspaper "to Members of the Duke Community" denouncing the Jabberwocky articles.

Members of the BSA had also petitioned the Publications Board to cease funding for the magazine.

Two months later, staff reporter's for the university's daily newspaper, The Chronicle, received a "10-minute, profanity-laced tirade" from basketball coach Mike Krzyzewski for publishing several articles analyzing the abilities of Krzyzewski's players.

Krzyzewski criticized the reporters in front of his team, coaches and staff for their coverage of recent games and for an editorial written by Chronicle writer Brent Belvin. Belvin's editorial "graded" the basketball team and their recent performances. Krzyzewski told a local paper that the articles were "really screwing our basketball team and its players," and told student reporters directly that "you're whacked out and you don't appreciate what the fuck is going on and it pisses me off . . . ."

The 13 Chronicle reporters said they felt intimidated by the events. Chronicle editor Craig Whitlock told a Durham reporter that people were suddenly "scared to take on the athletic department. They are afraid to say 'Coach K, you did something wrong!'"

Athletic Director Tom Butters, in an attempt to dismiss the incident, told the Chronicle that if they chose "to make an issue of it, then I'm gonna look at it very, very closely and somebody's gonna come out the loser."

But after the shock of the incidents faded, students fought to end the intimidation they had experienced and exert their rights to free speech.

Padgett is currently appealing the Publications Board's decision to the university with the help of American Civil Liberties Union lawyer Will Spillane. Should his appeal be denied, he plans to file a lawsuit in state court. He said that rejoining the Jabberwocky staff was no longer the most important issue. Padgett said he wanted to show that his right to free speech was violated because the university had failed to establish guidelines on the editorial rights of student journalists.

"I'm not sure if being editor of the Jabberwocky again is the answer. I'm not even sure if I want it. The majority of the people I've worked with have resigned their positions as a result of the incident. What I really want to accomplish is to establish editor's rights," he said.

Student reporters for The Chronicle fought the threat of censorship by reporting the incident to one of the city's daily papers, The Durham Morning Herald. The paper covered the incident and published numerous editorials protesting the event. Student reporters then met with Krzyzewski to discuss the incident. While the coach did not formally apologize for verbally harassing the staff, he told The Chronicle that "there are a couple of things I would change. . . ."

Krzyzewski said that he never intended to intimidate the newspaper staff members or force them to write only positive articles about his team. Whitlock disagreed, telling the New York Times that he was unsatisfied with the outcome of the meeting.

"I essentially wanted some assurance that the university does not condone intimidation, at least that Coach K. was wrong, and I haven't heard that," he said.
School bars student sex survey

Homosexual questions spur prior review policy

TEXAS — Despite its relevance to the discharge of men from a local Air Force base, a student survey about homosexuality was censored by administrators at Arlington Heights High School.

Principal Winifred Taylor attempted to bar distribution of the student newspaper’s survey, which questioned student attitudes toward homosexuality at the Fort Worth school. Further attempts were made by Taylor to establish a policy that would require the principal to review all articles for the newspaper before publication.

An agreement was reached between reporters of the student newspaper, The Jacket Journal, and the school administration only after several heated battles regarding Taylor’s new prior review policy took place.

The agreement gave the principal the right to review all surveys distributed within the classroom. Students may distribute surveys before and after school and during lunch periods without administrative approval. The principal may not review articles to be published in the student paper. Students quoted in the Fort Worth Star-Telegram said that they had won a victory against censorship and prior review.

Jacket Journal editor Sarah Dalton indicated that the most important aspect of the compromise — the rights of student reporters to decide what is published in their newspaper — prevailed.

“This means that we won. We ood up for our rights and we on,” Dalton said in the Star-Telegram’s account of the event.

Donya Witherspoon, faculty advisor of the Jacket Journal, said at the survey was relevant and timely because local newspapers had recently covered events surrounding the discharge of twelve airmen at Carswell Air Force base because of their sexual orientation.

The survey questioned students about their general attitudes towards homosexuality, their feelings on homosexual rights and their exposure to homosexuality through family, friends or within themselves. The survey did not require students to submit their names or “identify themselves in any way,” Witherspoon said.

“[Homosexuality] has been on my students’ minds. Some of these students even live on the Air Force base. They’d been asking to run this survey on homosexuality to find out just what the attitudes of their peers were about a sensitive subject,” Witherspoon said.

Witherspoon described the survey as “bland” compared to other student surveys distributed, dealing with drugs, child abuse, date rape and teen-age drinking. She said, however, that the school’s principal found the survey offensive and likely to cause emotional problems in participating students. Witherspoon disagreed.

“The surveys we’ve run before on drugs and sex have not ‘promoted’ the issue. Distribution of a survey does not mean that students feel any certain way about an issue. They were not trying to promote homosexuality. That’s not what a survey’s function is,” Witherspoon said.

Forbidden to distribute the 400 surveys by Taylor, students published a copy of it along with a related editorial in the paper’s next edition.

At a subsequent school board meeting on the subject, nearly 100 parents, faculty members and students showed their support for the staff’s freedom to distribute the surveys. The meeting also received coverage by three local television stations. The Fort Worth Star-Telegram ran several news stories and editorials on the subject. The board reached no decision.

The students then sent a letter of appeal to school superintendent Don Roberts. They were instructed to meet with Taylor to discuss the matter before appealing.

Students met once again with Taylor and eventually agreed upon the present compromise. Gene Zipperlen, an editor on the Star-Telegram’s National/Foreign Desk, said in a recent editorial that because Taylor reserved the right to review all surveys distributed in the classroom the agreement was only “a partial victory for the journalists, and the threat of prior restraint remains.”

While generally content with the agreement, students still complained about several of its stipulations. Managing editor Angela Sweeney told the Star-Telegram that the three-day period given to Taylor to review surveys distributed in class was “ridiculous.”
Big News
Adviser back

CALIFORNIA — The story of a journalism adviser who was transferred from East Los Angeles College after the student newspaper began covering controversial campus issues under her direction, came to a happy ending in February when she returned to her position.

Jean Stapleton’s trouble began in April 1988 when she was completing her 15th year at East Los Angeles. She said that she had a group of experienced students on the staff of the Campus News who were able to begin investigating controversial campus issues after they had mastered their new computer system.

The News reported on a story about the chairman of the business department,Hal Mintz, who was arrested on charges of running a house of prostitution and income tax evasion. Stapleton said the News staffers knew about the prostitution house and had collected some facts about Mintz before his arrest.

When Mintz was arrested, the News was prepared to cover local angles to the story with information about the quality of Mintz’s classes. They reported that Mintz had been missing classes and was bribing students with high grades to stay out of trouble. Mintz later pleaded no contest to charges of tax evasion and prostitution.

The News also wrote about a letter written by the then-president of the college, Arthur Avila, to the West Hollywood Business License Commission praising Mintz. Avila later resigned after receiving a faculty vote of no confidence.

The newspaper’s next big issue came a month later when a copy of the student body president’s transcript was anonymously delivered to the newspaper office. The transcript showed that the student, Lisa Quesada, was only enrolled for three units of classes instead of the nine units that are required for involvement in student government. The transcript was published in the newspaper along with Quesada’s explanation that she had added two classes too late to appear on her transcript.

Other stories exposed professors who held degrees from unaccredited colleges and corruption in the Associated Student Organization, including a $250 phone bill with charges for calls out of the country and to 976-prefix numbers.

In May 1988, Quesada and administrators charged in a formal disciplinary action that Stapleton and the News violated federal and state privacy rules in printing the transcript. Stapleton was transferred to Pierce College.

The acting vice chancellor of human resources, Jose Robledo, was reported to have cited ethical lapses that led to Stapleton’s transfer in an LA Weekly article last November. Robledo said that Stapleton created conflict. He also criticized her for allowing Quesada’s transcript to be printed.

At Pierce, Stapleton was given three lecture courses and one writing course. Pierce already had three advisers for its student publication, and Stapleton said that she felt she had no hope of ever becoming an adviser while she was there.

“I’m an adviser, that’s what my love is,” she said.

Stapleton fought the university’s decision, and tried to get her job back. On Nov. 30, an arbitrator ruled that the district had been wrong in transferring her. She was reinstated on Feb. 5.

Stapleton said that some of her former students returned to the newspaper and the atmosphere around campus has changed for the better.

“It’s like a different school,” Stapleton said. “I think I’m getting more respect.”

Robledo, no longer critical of Stapleton, said since the arrival of the new president, Omero Suarez, there has been a more positive atmosphere on campus.

“We’re going to try to work together on this for the good of the institution,” Robledo said.

The happy ending may have left less opportunity for the student’s to practice their investigative reporting skills. Many of the faculty continued on page 28
Drug story causes conflict; student editorial rejected

PENNSYLVANIA—Central Catholic High School principal James Hodrick calls it “a lack of communication about a sensitive subject” in reference to a censored issue of a student newspaper. Hodrick halted distribution of the student newspaper when he claimed an editorial advocating the legalization of drugs contradicted the school’s ethical standards. Several members of the staff contacted reporter Scott Wade of Allentown’s Morning Call, telling him of the alleged censorship. Wade reported the incident in the local paper. Shortly after the event The Call received several letters to the editor protesting the principal’s actions.

Students expressed anger at Hodrick’s decision, calling it “totally unfair.” One student was reported in The Morning Call as asking what “are we supposed to talk about nuns and priests all the time?” Twenty members of the student paper’s staff also expressed hesitation in giving their names to reporters. No punishment occurred as a result of the incident.

Hodrick said that his goal was not to censor the paper but to warn students about the sensitivity involved in reporting on issues involving drugs, sex and alcohol within a Catholic school system.

Had there been available time to discuss the issue with students before the publication deadline, Hodrick believes the conflict could have been prevented.

“I understand that students have a right to free speech. However, students need to be aware of certain ‘sensitive’ subjects that should be reported with special care. I wanted to meet with the staff before the paper went to press, but was out of town,” Hodrick said.

“I left a message to students that I would discuss the editorial with them. Unfortunately, all that was relayed to them was that the article would not run. I am sorry for that. These are good kids, and I understood the intellect involved in their arguments.”

Hodrick added that his decision to halt distribution of the paper was based on the editorial’s “presentation,” claiming that it did not consider the elementary school-age portion of the paper’s readership when addressing the “sensitive subjects.”

“What needed to be discussed was the audience involved. The paper is sent to an elementary school. Their subject was acceptable, their presentation was not and that is what we would have worked on.”

Hodrick said that he was aware of the Hazelwood decision, and the increased discretion given to school administrators as a result. He said also that such rules do not apply to Catholic schools. According to Hodrick, neither idea affected his decision to confiscate the student paper.

“Despite the Hazelwood decision, private schools do need to recognize basic civil rights of their students. I wanted to discuss the article first, not censor it,” Hodrick said.

members who had caused problems for Stapleton have since retired or transferred, and the sources of corruption in the school seem to have dried up, Stapleton said.

“There’s not as much to investigate,” Stapleton said. “That’s the problem in this business, you can clean up your act, but you risk putting yourself out of work.”

News trashed
300 papers stolen

CALIFORNIA — Student editors at Ohlone College in San Jose reported that a November issue of the weekly Ohlone Monitor disappeared from distribution boxes. The newspaper contained a story about a proposal for an automatic student government fee. Student government leaders said the newspaper gave a negative report of the fee.

About 300 copies were later found in trash bins on campus and in the desks of student government leaders, according to Anita Schaefer, editor in chief of the Monitor.

“We don’t really know who took the newspapers,” Schaefer said.

Sue Crust, coordinator of campus activities, confirmed that some of the papers were found in desks at the student government offices, but she refused to comment on the possible involvement of student government leaders.

Crust said there was no proof that the students were involved.

There is no policy in place to prevent this from happening again, according to Crust.

“I think it has happened at other schools, and it could happen again anytime, anywhere,” Crust said.

Schaefer said that the incident was handled informally. Florence Reynolds, the Monitor’s adviser, contacted Crust and the papers were returned the same day.

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CENSORSHIP

Journalists suffer for satirical editorial

MASSACHUSETTS — Despite a principal's vehement denial of censorship at Longmeadow High School, a satirical editorial in the school's newspaper prompted the resignation of a faculty adviser and the reassignment of two student editors.

Senior Adam Shatz and David Kent, once editors of the school's student-operated newspaper, The Jet Jotter, were removed from their positions after an editorial appeared in the November issue criticizing two Longmeadow teachers. Principal Donald Murphy confiscated issues of the paper and refused to allow their distribution.

The paper's faculty adviser, John Fitzgerald, said that the students were removed from their staff positions because of the controversial nature of the editorial's content, which compared the teachers to Communist leaders and implied that the school's superintendent had used LSD.

Shatz wrote the letter shortly after the teachers "expelled him from the library for talking." The school maintains a strict policy prohibiting conversation in the library.

"The subject of the article was highly sensitive. One of the teachers satirized had recently been sprayed with sodium nitrate. She was made to feel further attacked by the article," Fitzgerald said.

"I removed the editors from their positions because of this, and because of the fact that they hadn't been doing their jobs. The paper was beginning to take on a very negative, cynical attitude."

Fitzgerald resigned his position as faculty adviser of the paper during the controversy.

Former editor Adam Shatz said that he believed the incident mirrored the suppressive climate after the Hazelwood decision. Shatz said he documented the incident for himself because he was not allowed to comment on the incident in an article run in the Boston Globe.

Ironically, Massachusetts has a student freedom of expression law, which was passed in 1988 as a direct response to the Hazelwood decision. The law guarantees students full protection under the First Amendment to "express their views through speech and symbols, [and] to write, publish and disseminate their views."

"I have everything, what really happened documented, for myself. I see definite suppression in this event. The Globe didn't report that the newspapers containing the articles were confiscated. I wrote up the event also because there were too many little facts that didn't surface when the story became public," Shatz said.

Shatz said he felt that student satire should be accepted and recognized as openly and readily as that which is found in magazines such as the Nation and books like Plato's Republic.

"The satire found in these publications is identified as satire and appreciated for what it is, unlike student satire, which is seen as malicious thanks to Hazelwood," Shatz said.

"I think the administration made a big deal about a parody. I just felt that my satirical viewpoint had been made clear in the editorial."

Paper confronts gay sex issues

WISCONSIN — When students published a series of articles on homosexuality in the Williams Bay student newspaper, the administration talked about discontinuing the paper, the faculty adviser's job was reviewed, the community protested and editor Jennifer Knight became a hero among her peers.

The articles, which included an interview with a gay man, a report on community counseling for homosexuals and a general information story, prompted twelve local residents to complain about The Bull Dog Barker's two-page spread on the subject.

Dissenters included members of local religious groups, who questioned the articles "morality" and members of the community who felt that the AIDS issue was not sufficiently discussed. Others felt that the articles' sources of information, including the American Psychiatric Association, were not reliable or relevant to the subject of homosexuality.

"Everything was questioned, from sources of information to the moral stance of the newspaper, to the discretion of our adviser Philip Sanborn," Knight said. "It was emotionally hard on the whole staff and I think there'll always be

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LEGAL ANALYSIS

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Although the state courts have not ruled on whether the state's shield law applies to student reporters, there are several reasons to believe that students would be protected from compelled disclosure.

The shield law protects "[A] person engaged in, connected with, or employed by news media for the purpose of gathering, procuring, transmitting, compiling, editing or disseminating news for the general public ...." Student reporters clearly are engaged in, connected with and possibly even employed by the news media. However, student reporters may have a harder time showing that the general public is their audience. Students may try to prove that the general public is their audience by showing that: (1) their publications are read by persons other than students, (2) their publications address issues of general interest in the community, or (3) their publications comply with the shield law requirements in all other respects.

In applying the shield law, a New Jersey superior court liberally construed the requirements for what constitutes a "news medium" under the statute. In re Avila, 206 N.J. Super. 61, 501 A.2d 1018 (App. Div. 1985). The court said a 20-page tabloid paper fell under the statutory language extending that privilege to reporters at a publication "similar" to a newspaper. The court ruled that the tabloid, which was distributed free, did not meet the statutory requirements of a "newspaper" because it did not have a paid circulation. But the court extended the privilege to the tabloid, saying that the courts should look at the intention behind the statutory requirements rather than merely the form. The decision suggests that even if a student publication does not strictly comply with the shield law's requirements, a court may possibly extend the privilege to students connected with the publication.

Several other decisions have recognized that the legislature has tried to establish the strongest possible protection for reporters and the news media. For example, in In re Schuman, 114 N.J. 14, 552 A.2d 602 (1989), the supreme court held that the shield law protects journalists from being compelled to testify for the prosecution in a criminal case, even if the information or news has already been disseminated. Also, the shield law protects reporters who are defendants in libel cases. Moressa v. New Jersey Monthly, 85 N.J. 176, 445 A.2d 376, cert. demed, 459 U.S. 907 (1982).

NEW YORK


New York is one of the only states to interpret its shield law in a case involving student reporters. In New York v. Hennessey, 13 Med. L. Rptr. 1109 (Dist. Ct. Nassau Cty. 1986), the court held that student reporters at Hofstra University were not protected by the law. The court held that the student publication was not a "newspaper" under the statutory definition. Although the court's decision does not carry the same precedential weight as an appellate court decision, it indicates that the courts might strictly construe the shield law's requirements.

According to the law's definition, a newspaper is a paper that has been ordinarily printed and distributed at least once a week for a year or more. In addition, a newspaper must contain news articles of opinion, features, advertising, or other matter regarded as of current interest, have a paid circulation and be entered at the post office as second-class matter. Student publications must meet each of the required statutory requirements, which may be difficult given the nature of many student publications.

The shield law itself protects "professional journalists" who "for gain or livelihood, [are] engaged in gathering, preparing, collecting, writing, editing, filming, taping or photographing of news intended for a newspaper, magazine, news agency, press association or wire service or other professional medium or agency ...." Given the court's decision in Hennessey, it is questionable that a student reporter could qualify for the privilege as a "professional journalist." While few student journalists derive their livelihood from their work on a student publication, it is not clear whether students who are given a scholarship, tuition reimbursement or other compensation for their work might be said to "gain" from such participation.

Those reporters who qualify for the privilege are protected by one of the most comprehensive shield laws in the country. The shield law provides an absolute privilege to journalists to refuse to disclose confidential sources or information in a civil or criminal proceeding. The law extends a qualified privilege for nonconfidential news.
principal of Gibralter High School, Stanley Kochanski, objected to what he described to the Associated Press as "satanic kinds of things."

The district was reported to have discovered "satanic overtones" within a story called "Gibralter's Monsters," a poem which included the words "the blood cleanses," and illustrations of dragons. Paye said that the blood references in the student's poem were symbolic of Christian ideas, not representative of human sacrifice.

"The poem was intelligent and was submitted by one of the school's best writers. He never intended his words to be interpreted the way they were. It really was a very good piece, and that is what we're basically suing the district about. I felt they were silencing a good writer," Paye said.

Witters disagreed.

"The articles themselves were questionabke. The subjects and the wording of the articles were inappropriate. The district had every right to prevent what they saw as inappropriate from being distributed," Witters said.

Witters spoke on behalf of Kochanski and superintendent Jerome Pavlov, who were unavailable for comment.

Demenfield said that the district's censorship of the magazine stifled students creativity and promoted "unenlightened" student publications.

"The satanic allegations are ludicrous. They arose from a drawing aside an article about monsters. I read the story and can't figure out what makes the story smack of Satanism," Denenfeld said.

"It's the same old situation. An official decides that if a student writes about something, he's contributing or participating in it. It shows a lack of creativity and appreciation of irony on the administration's part. Their answer to everything touchy is 'confiscate.'"

Witters said that although initial proceedings have begun, the trial date could be six months away.

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Police confiscate student's film

KENTUCKY — In response to a conflict between a photographer and local police, students and an adviser at the Kentucky Kernel have established a policy to guide student journalists in working with police at the scene of an accident.

Michael Clevenger, a photographer for the daily student newspaper at the University of Kentucky in Lexington, arrived on the scene of a particularly gruesome accident involving a car and a pedestrian last November. A local police officer gave him permission to take pictures.

After taking approximately five pictures, a second police officer confiscated the film and asked Clevenger to leave the accident scene.

The police officer who confiscated the film claimed that Clevenger had moved evidence. He said it would be necessary to compare Clevenger's photos to the original police photos to see if anything had been changed.

Clevenger, who claims that he did not touch any evidence, says that he was forced to comply with the police request because he was threatened with arrest.

The film was returned three days later. One picture ran as part of a story about Clevenger's problems with the police, but at that time the accident itself was no longer a timely story.

"There was no news at that point," Clevenger said.

Larry Walsh, chief of police for the Lexington-Fayette metro area, said that the police officer who confiscated the film was acting on his emotions because of the nature of the accident.

"The photographer wasn't acting improperly, the police officer was," Walsh said.

The police had not established the proper perimeter around the accident scene, according to Walsh.

The Kernel's staff has since accepted a policy to help reporters handle these types of situations. The policy was written by the faculty adviser, and the students agreed on it.

"We decided it was fair and accurate," Clevenger said.

The policy says reporters can get access to an accident scene with permission. If they cannot get permission from the police officers at the scene of the accident, then they should try other channels, according to the new policy.

"We don't act as editors of the news media," Walsh said.
Fired adviser plans to accept cash settlement

**CALIFORNIA** — A former publications manager at California State University at Los Angeles has plans to accept an out-of-court cash settlement in a dispute with the university, but the university said he missed the deadline and the case is closed.

Mark Haefele was fired from his position with the *University Times* in April 1989. Haefele said the conflict began as a result of a story he wrote about Joan Zyda, the adviser prior to Haefele who was fired in a heated controversy the year before, and other student-written stories about controversial topics.

The *Los Angeles Times* reported that Haefele was fired for “unsatisfactory job performance” and for allowing “too many errors” in the school's publication. The statements were attributed to Charles Simmons, the newspaper’s faculty adviser and Haefele’s supervisor, and Keith Henning, then-chairman of the communications department.

Haefele threatened to sue the university for the loss of his job, and Simmons and Henning for libel.

Working through union representatives, Haefele and the university reached an agreement last summer. The university agreed to retract the statements and compensate Haefele for two months back pay totaling close to $6,000. The university later changed the offer to under $600, according to Haefele.

Irene Cordoba, an employee relations specialist for the chancellor’s office at the university, said that Haefele missed the February deadline to accept the settlement and the university was considering the case to be closed.

Haefele said in March that there was no deadline set on the agreement and as far as he knew he could still accept it. He still plans to accept the offer as long as it does not preclude him from suing Henning and Simmons for libel.

Haefele, who now works at KCET public television as a writer, said since he has a job he no longer had to worry about irreparable damage to his career caused by the allegedly defamatory statements. However, for the sake of his reputation he was planning to continue pursuing his case.

**School board upholds new prior review policy**

**MONTANA** — Faculty adviser Mark Kelly hoped that the letter he had received from the chairman of the Boulder School District was a mistake. The letter outlined the school board's new policy that allowed a board committee to review and publically comment on the newspaper's coverage of upcoming faculty contract negotiations before the paper went to press.

The letter, Kelly said, sent him “terrifying messages of censorship and prior review.” His worries materialized when the school board voted to uphold the request by a 4-3 vote.

The “policy” described would require student reporters to submit the final draft of “any article dealing with negotiations or negotiation issues to the board negotiation committee at least one week prior to deadline.”

The board also demanded an equal amount of space for commenting on the reported information in the same issue of the newspaper.

After the school’s board of trustees voted to uphold the letter’s stipulations, Kelly contacted the Montana Teacher’s Union and filed a grievance. The grievance is expected to be reviewed by the state sometime this summer. Kelly said that he hoped to obtain legal counsel before that time.

Should the school board stand by the prior review policy, Kelly said he would take further legal action.

“I would drop the grievance like a bad habit should the board overturn its decision. But I don’t think things are moving in that direction,” Kelly said.

Kelly said that the school board’s demands prevented the Panther Press from writing both objective and editorial-type articles regarding teacher negotiations. His deepest concerns included the all-encompassing reach of the letter’s substance and the ethical lessons the demands sent to student journalists.

“Here is the frightening part. When administrators said students couldn’t cover teacher negotiations, that suddenly includes all these subjects of importance to a great many people — for instance merit pay, further education, faculty walk-outs, budget strikes, etc. Suddenly students can’t touch on a whole lot of subjects,” Kelly said.

Kelly said he believed that the letter was the result of the admin
administration's sensitivity to student criticism.

"The administration isn't hid­
ing any huge secret. They just

don't want to be criticized by

students or by anyone for that

matter. Another big issue here is

that this letter directed at students

indirectly includes anyone in the

community who wishes to crit­

icize the school [through letters to

the editor]. Our paper includes a

large part of the community,"

Kelly said.

School board President Janice

Anderson stated within the letter

to Kelly that the main goal of the

policy was "to teach [Jefferson

High School] journalism students

the importance of balanced news

coverage."

In an editorial submitted to the

local paper, The Boulder Monitor,

Kelly said that The Panther's stu­
dent reporters do not need the

school board to "censor the news­
paper" in order to "teach them

objectivity."

Several other letters to the ed­i­tor were submitted to The Mon­
tor defending Kelly's position.

"Some detached professionals

obviously believe the paper is

objective and this year's staff has

already proven themselves worthy
to deal with controversial issues in

a responsible, ethical, free press,"

he stated.

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**CENSORSHIP**

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**Fund created**

**INDIANA** — The burden of legal expenses may be partially lifted from a former yearbook adviser at Ben Davis High School in her quest to rectify what she believes were infring­ments upon her First Amend­ment rights.

The Athmann Legal Defense

Fund, whose steering commit­
tee includes Ben Davis High

School alumni and parents and

both high school and college

faculty members, was recently

created to raise money to cover

court expenses for English

teacher Marilyn Athmann.

Once the adviser to the Key­
hole, the Indianapolis school's

award-winning yearbook, Ath­

mann was removed from her

position after she refused to

surrender coverage of the 1987

football championship to the

school's athletic department.

Athmann said that although

she was told her removal

stemmed from poor faculty and

student relations, she believed the

yearbook incident prompted Principal James Mif­

flin's decision.

"I think it's really ironic that

I was fired from my yearbook

[for problems with] the very

people who are supporting my

defense fund. If relations are so

awful with these people, why is

the response to this so posi­
tive?" Athmann said.

Athmann and steering com­
mittee members hope that the

Legal Defense fund can raise

$25,000 to cover Athmann's

attorney fees. Athmann is not

asking for a monetary damage

award.

"I would just like to prove a

point. [The school administra­
tors] have said things that

aren't true in order to carry out

an action that goes against stu­
dent editors' rights to control

what goes into their yearbook,"

Athmann said.

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**Student movie reviews rejected**

**NEW JERSEY** — A student at Clearview Regional Junior High School filed a lawsuit against the principal, the superintendent and the board of education in Feb­

ruary because movie reviews of

Mississippi Burning and Rain

Man that he had written were

excluded from the student news­
paper because of their R rating.

The American Civil Liberties

Union of New Jersey is represent­
ing the student, Brian Desilets,

in what will be the first case since

Hazelwood to ask a state court to

use the state's more li beral free­
dom of speech laws in making its
decision.

The lawsuit was filed in state

superior court claiming the school's action violates both the state and federal constitutions, according to Edward Martone, ex­
cutive director for the ACLU.

Martone said that because the

Hazelwood decision would have

precedence in this case in a federal
court decision based on federal

law, he decided to take the case to

a state court with a state constitu­
tional claim and defend it as if

Hazelwood never happened.

New Jersey courts have inter­
pret ed their state constitution's

free expression provision as being

more protective of individual

rights than the First Amendment
to the U.S. Constitution. Thus a
court decision based on state law

could provide students with more

rights than they were given under

Hazelwood.

"I'm not stupid," Martone said.

"I wouldn't bring a case like this
to a federal court after Haz­
elwood."

Desilets said he wants to pre­
vent the censorship of movie re­
views for future publications of

the Pioneer Press, and he wants

his reviews to be published.

Desilets said the student news­
paper has published reviews of R­
rated movies before, but often

without including the movie's rat­
ing in the story. This time, the

rating was only not included, but

because of a typesetting error the

rating was printed in a larger type

than it should have been and was

especially noticeable, Desilets

said.

Michael Toscano, the school

superintendent, and Charles Bish­
op, the principal who censored the

review, refused to comment. How­
ever, Toscano told the ACLU that

the reviews were excluded because

junior high students cannot attend

R-rated movies unless they are

accompanied by a parent or
guardian.
Newspapers removed

Dean blames inaccurate drug reporting

ORTH CAROLINA — When student newspaper at Elon College published a series of stories about student drug use the weekend before incoming freshmen and parents were to visit the campus, the dean of admissions moved from their distribution racks.

Mindy Schneeberger, editor of The Pendulum, said that a survey taken in the fall of 1988 by Piedmont Independent College Association of students from six universities in North Carolina. The surveys were chosen randomly to participate in the survey.

Elon's associate dean of student affairs, Jana Lynn Fields Patterson, received the results of the survey in the fall of 1989 and she noted that The Pendulum staff wrote in the survey.

Schneeberger said the newspaper staff decided not only write about the survey, but also take an ethically look at drug use on campus.

The length of the paper was eased from the usual eight pages to 16 pages for the issue, in because of the amount of advertisements that had been sold for the issue.

On Thursday, Nov. 9, Schneeberger distributed approximately 2,600 newspapers. Sometime on Friday night or Saturday morning, the papers were removed from the distribution racks.

Nan Perkins, dean of admissions, admitted to having the papers removed. Perkins said that she was concerned by an inaccurate story in one of the stories. The story said that over 34 percent of the students at Elon used cocaine on a regular basis. The figure, in fact, represented the number of students who smoked marijuana regularly. Cocaine was used on a regular basis by 7.5 percent of the students surveyed.

Perkins said she did not want the 800 to 1,000 incoming freshmen and parents who were expected to visit that weekend to draw conclusions about the school based on the inaccurate statistics, so she had the papers removed.

The papers were to be returned at the end of the visitation day, but Perkins said they were unintentionally disposed of instead.

Schneeberger said she does not feel that inaccuracies justify removing the paper.

"To me it was an issue of censorship," Schneeberger said.

Perkins also thought the stories should have mentioned that six other schools were involved in the survey.

Schneeberger said that they were trying to focus on Elon. The fact that six other schools were surveyed was removed from one story in editing.

Perkins apologized for her actions and said, "I very much regret the decision."

The university decided to pay for the paper to be printed again and redistributed. The Pendulum staff removed some of the stories that were no longer timely, including sports and entertainment previews, and they included a letter of apology from Perkins, an editorial condemning the act written by Schneeberger and letters to the editor addressing the issue. They also corrected the statistical inaccuracies and changed a graph that had caused some confusion in the original publication.

The issue was covered by local radio stations and commercial newspapers. Schneeberger said students at Elon and the general public have been very critical of the university since the removal of the newspaper.

"The paper was supposedly pulled to avoid giving people a negative impression of Elon. That action in itself reflects badly upon Elon," Schneeberger wrote in her editorial.

The media board, an advisory group of faculty and students, was working on a policy this spring that would discourage similar incidents from occurring in the future. The policy will be presented to the school president and the Student Government Association when it is finished, Schneeberger said.

Bradd Hamm, a media board adviser, said, "I do not expect any further problems as the students continue to address issues facing this campus."
Protests prompt change in distribution policy

TEXAS — Student protests have led officials at the University of Texas to decrease restrictions on the distribution of student publications.

Until early this February, student publications with any advertising content could only be distributed from approximately twenty pre-designated locations. Student editors complained that the locations were not always in the most visible, high-traffic areas of campus. The papers also had to be placed in distribution racks that cost $35.

In April 1987, a federal court found that the university’s regulation was a constitutional time, place and manner restriction.

Judge James Nowlin found that the rule was “narrowly tailored to serve a significant governmental interest, and leaves open ample alternative channels of communication” in Texas Review Society v. Cunningham, a case initiated by a conservative student publication called the Texas Review.

Consuelo Trevino, a student development specialist for the university, said that recent student protests caused the university to reinterpret the regulation.

Trevino said that official student organizations can now put up tables on campus. In order to be given official student organization status, groups must have three members. She said the tables are usually put up in the high-traffic West Mall area of campus. From the table students can pass out their publications.

In addition, the student’s association recently responded to petitions signed by student editors and bought nine racks for alternative student publications. The Campus Activities Office purchased one rack for the same purpose.

However, the new interpretation of the policy would only allow students to put a table in one of the designated distribution areas and set their papers on it for whoever chooses to pick one up, according to James Vick, vice president for student affairs.

“The only thing you can’t do is hand a paper to another student,” Vick said.

Editors of alternative student publications had complained that the old interpretation of the regulation limited the number of readers that they could reach and was a violation of academic freedom.

Prior to the change in policy, University officials stopped writers from The Women’s Alternative Times, a bi-monthly publication, from putting a distribution rack in the university’s largest women’s dormitory because it was not a designated area.

Other editors claimed that purchasing the racks was impossible for a low budget publication.

Scott Henson, editor of the monthly Polelmist, said that the publication survives mainly on donations. Advertising helps pay for some of the production costs so Henson and Philpott are covered under the regulation. Because of their low budget, Henson said that they cannot afford to purchase distribution racks.

“We can barely afford to publish,” Henson said. “We do this out of our house.”

Before the change some student editors, including Henson, had been handing out their publications in the West Mall area in direct violation of the policy.

Henson said the university threatened to take away the official student group status of the Polelmist if they did not stop using this method for distributing the publication.

Loss of student group status would mean that the magazine could not use the university printing service, which Henson said costs less than using a commercial printer.

University officials maintain that the regulation is necessary to curb private business solicitation on campus and to prevent the university from being viewed as endorsers of advertising in student publications.

The official student publication, the Daily Texan, has not played an active role in the campus protests, but ran at least one editorial in the paper opposing the policy.

Karen Adams, editor in chief, said.

Teachers resolve to defend student freedom of speech rights

MARYLAND — The National Council of Teachers of English passed a resolution defending student press rights at their annual business meeting in Baltimore, spurring similar actions in several other states.

The council’s actions, which prompted affiliates of the group to introduce similar ideas to chapters in Colorado and New Mexico, urged educators to support the passage of state legislation protecting the “rights of students to freedom of speech and press.” The council’s resolution also urged local communities and school systems to help “ensure these rights.”

Pat Graff, chairman of the NCTE Committee on English Teachers and School Publications, told the Journalism Education Association that the group set seven primary goals for 1990. They include the dissemination of information “on the legal and ethical implications of publications and their publication,” promoting “active, positive networking between NCTE members [and] groups involved with the advisement of publications,” and establishing “communication links between other NCTE groups that deal in areas of similar concerns.”
CENSORSHIP

Principal pressures sex articles from paper

NEW JERSEY — Editors of a high school student newspaper did not publish three articles dealing with student sexuality after the school's principal threatened to censor the stories.

Despite the censorship, both Craig LaCava, editor of the student newspaper, the Sting, and Holmdel High School principal Richard White claim that the incident is promoting positive efforts to improve the school's sex education curriculum.

LaCava said that he knew the three articles dealing with the school's "faulty" sex education curriculum, teen pregnancy and sexually transmitted disease and condom usage would create controversy within the school as well as in the community. Feeling that such issues needed to be addressed, LaCava and Sting staffers opted to ignore principal White's warnings and print the articles.

White met students at the printer and halted the articles' publication, offering to meet with Sting staff members to discuss the conflict.

"White agreed to allow us to publish one article without any changes," LaCava said. "Another was allowed to go to print with specific modifications, and the third, the article with factual techniques for the use of a condom was eliminated entirely."

After White issued these limitations on the stories, students decided not to publish any of them.

White claims that his action involving the articles was based on his strategy for effectively promoting change within a school system.

"I realized that the issues raised within the articles were valid and change was needed. But no one in affect change by offending people in the process. If the articles had been allowed to run without alterations the students would have alienated the very people he are their allies," White said.

"I truly supported their goals, but I think that bombarding the public with everything at once is wrong. Then it becomes an emotional issue and students are not as likely to be taken seriously. I don't know if they understood that though."

LaCava said he felt that the censorship of the articles had to do with the school superintendent, Timothy Brennen.

"He [White] supported our efforts at first. After meeting with the superintendent he suddenly decided that the articles were inappropriate. No one, especially White, will admit it, but it's my gut feeling that the ultimate decision had to do with the superintendent pulling rank on Mr. White," LaCava said.

An editorial appeared in the Sting reflecting student reporters' disappointment at the school administration for disallowing the articles. LaCava said that despite the censorship, the controversy surrounding the articles prompted the change in the school's education curriculum he'd hoped for.

"The articles spurred the recreation of the Health Education Committee, made up of parents, faculty, health officials and school board members. The committee, which hasn't officially met for a long time, agreed to look into concrete changes in the school's sex education curriculum," LaCava said.

Sting staff members attended a school board meeting shortly after the incident to discuss the implementation of curriculum changes. LaCava said that Sting reporters planned on tracking the progression of such change by attending future school board meetings and voicing their opinions.

"One positive thing that came out of this incident is that students have resolved to stay on them [the committee] about this," LaCava said. "We've always gone to board meetings, but now it's especially important to persist in an area in great need of change. We need to raise awareness in this area.

"I think the initial censorship of the articles stirred enough reaction to work well on our behalf. I think also that the school may think twice about the issues at hand before censoring our stories. We seem to be working a little closer with the administration and are hoping for positive change," LaCava said.

White also felt that the incident's outcome contained positive elements. He said that the students' push for curriculum changes allowed them to experience the bureaucracy and delay in affecting large-scale change.

"I think that through this event, students have gotten a more realistic impression of the political process of implementing their ideas. They want immediate change when in reality there are responsibilities to various committees, the faculty, public constituencies, and to the public in general. I think they've learned that change is possible, but that it takes time," White said.■
Student uses court order to stop reporter

ARIZONA — The Arizona First Amendment Coalition, nine regional newspapers and the Bill of Rights stood behind Scottsdale Community College reporter Kent Davis when student government president Dennis Olp attempted to censor his articles through a court-issued restraining order.

Davis said that Olp went to court to obtain a restraining order after three articles outlining his apparent misconduct appeared in the student newspaper, Campus News. The restraining order, issued by Judge Nancy Conner barred Davis from reporting on any subject relating to Olp or his abilities as student body president. The order also prevented Davis from contacting or interacting with Olp in any manner.

Olp told the State News, a local newspaper, that he and his family had been harassed by Davis, who had joined the Campus News shortly after unsuccessfully opposing him in a previous election for student body president. Davis had written an article accusing Olp of dishonestly creating a scholarship for himself using money allotted for the student government.

Judge Nancy Conner nullified the order ten days later through an agreement signed by both parties that said the restraint violated Davis’ First Amendment right to free speech. Olp filed a plea for the order’s annulment one week before the case was scheduled to go to trial.

Davis’ attorney, Lane Oden called the judge “uninformed” for issuing the restraining order. Oden said that Conner erred when she failed to acknowledge an Arizona statute which specifically prohibited the restraint.

“The judge was obviously uninformed about a specific Arizona statute that prohibits the issuance of any injunction that infringes upon Constitutionally protected rights,” Oden said.

Oden noted that the danger of the incident stemmed not from Conner’s barring Davis from contacting Olp, but by preventing him from writing articles about Olp’s conduct.

“I believe that maybe Davis was harassing Olp. In that case a restraining order might be in order. But the restraining order placed on Davis kept him from even writing about [Olp]. The trouble was in this ‘all encompassing’ restraint. It never would have been upheld,” Oden said.

Davis said that he ignored the restraining order on two occasions, by writing an editorial about Olp’s misconduct and by attending a student government senate meeting.

“That’s when all the local papers got involved. I wanted to attend a public meeting and the police were being called to arrest me because of the order. The press jumped all over Olp and the order and it became obvious that something needed to be done — fast,” Davis said.

Seeking legal advice, Davis called the Arizona First Amendment Coalition and was placed in contact with attorney Lane Oden, “who basically took over the case,” producing over 19 pages of information in Davis’ defense.

“All I had to do was talk to the press, make sure they knew what was going on. That was important to me,” Davis said.

“When you mess with the First Amendment rights of a reporter, you get all kinds of support. You can’t violate something so fundamental to reporting. Olp must have known he couldn’t win,” Davis said.

Olp, who still acts as president of Scottsdale’s student government, refused to comment on the incident.
ILLINOIS — Nearly three years of legal action, culminating in two separate court decisions, have produced what four Moline High School students call “lukewarm” results in a quest for First Amendment freedom.

Proceedings began in December of 1987, shortly after students David and Katie Nelson, Matt Rogerson and Lisa Ward distributed issues of a religious magazine "Issues and Answers" in the school's hallways. Vice principal Mary Foster informed the students that Moline's regulations prohibited distribution of such materials. Students were not punished for their actions. Believing that their First Amendment rights had been ignored, they contacted attorney Charles Hervas.

A month later a policy was outlined on the daily announce-
ments regarding the distribution of religious or political materials. The policy limited distribution of such materials to specific hours, before and after school, in a designated area of the lunchroom. The policy also requested students to leave copies of the magazine in the principal's office for approval before distribution.

The students originally challenged the constitutionality of Moline High School's unwritten policy, asking for $1 each in damages. U.S. District Judge Michael M. Mihm rejected their motion, upholding the constitutionality of Moline's policy.

The students also asked the court to rule on the school's original distribution policy, verbally expressed by vice principal Foster. Mihm ruled in favor of the students, finding the original unwritten policy unconstitutional because it contained no limitation on the school's ability to censor. They are awaiting the court's decision regarding subsequent damages.

Katie Nelson said that although she was pleased with the outcome of the second ruling, they have not distributed recent issues of the magazine.

Stanley Eisenhammer, the school's attorney, said that he was not sure the court's decisions were positive.

"It's not that I'm in favor of the Hazelwood decision, but I think in some cases prior review is necessary. It warns students of the possibility of punishment. The principal's original guidelines involving content review were vague and that's where the Constitution won out," Eisenhammer said.

PRESS GROUP SUPPORTS STUDENT FREE SPEECH

COLORADO — A national organization of 16 professional journalism and communication organizations issued a statement in March saying that high school students "should have the same rights of freedom of speech and freedom of press as adults."

The First Amendment Congress sent its message to 30,000 school administrators, teachers, parent-teacher and scholastic press organizations as a reminder to educators and parents of the importance of free expression, Congress President John Finnegan said.

"We want to emphasize the good effect a free exchange of ideas can have on school campuses," said Finnegan. "We want high school students to learn how to thoroughly research an issue, develop an opinion and express that opinion without fear of censorship."

In addition to offering support or student free expression rights, Congress offered the following suggestions for ensuring that those freedoms are maintained:

"School officials resist censorship pressures and encourage student expression as a form of citizenship training."

"State legislatures enact laws that strengthen or enhance these local provisions for student expression."

"School boards and school administration employ qualified journalism teachers and adopt clear policies that ensure free speech and a free press in school."

The message also urged educational, parent and student organizations to enter dialogue and conferences to develop programs that enhance freedom of expression for students.

Under the heading "The future of the First Amendment depends on all of us," the message was the fourth in a series distributed by the Congress. Other messages have gone to print and broadcast reporters, editors and lawmakers.

Court ruling protects teacher's satirical letter

VIRGINIA — A Fairfax county physical education teacher won a January victory in a federal court decision that found satire in a high school newspaper to be protected speech under the First Amendment.

In January 1987, Donald Seemuller wrote a letter to the editor in the Lake Braddock High School newspaper, The Bear Facts, in response to an anonymous letter written by students. The students' letter complained about sexism in the physical education department at the school.

Seemuller's response said that he likes girls and the things they can accomplish. He wrote in part, "My two females at home are a sixteen year old whom I permit to chauffeur my son to and from his many activities, and my wife who is an adequate cook and housekeeper."

Acting on the advice of the principal of Lake Braddock, George Stepp, Seemuller wrote a letter of apology for publication in the paper.

However, on Seemuller's next evaluation, Stepp gave Seemuller a "needs improvement" rating, in the category of "professional responsibility." Because of this low rating Seemuller did not receive his pay raise for the 1987-88 school year.

Seemuller filed a lawsuit against the Fairfax County Board of Education.

In 1988, the U.S. District Court issued a directed verdict in favor of the school board saying that Seemuller's letter was not an issue of public concern and therefore was not protected under the First Amendment.

Patrick McCarthy, adviser for The Bear Facts, said he thought that decision hurt the paper.
"We think the first ruling had a chilling effect on the publication," McCarthy said. "Now people feel they can speak out, which we think is kind of obvious."

The U.S. Court of Appeals for the Fourth Circuit overturned the ruling. Finding that the letter was an issue of public concern, the appellate court sent the case back to the district court to be retried.

It was in the district court for the second time that Seemuller's satirical letter was found to be protected. A jury awarded Seemuller $3,898 for his lost pay, and interest from April 1987 when he would have been given the raise.

Seemuller originally sued for over $300,000, but he said he was not doing it for the money, but to protect his integrity.

"If I wanted to make money, I'd have been a stock broker," Seemuller said.

He said that during the ongoing lawsuit school officials began questioning the way he handles students, and he wanted to prove that he had not done anything wrong.

"I always thought that my First Amendment rights were violated," Seemuller said. "We all know that public employees and First Amendment rights don't always go hand in hand."

Seemuller's attorney, Bill Ridehart, said this case was important for all teachers because it shows that teachers do not lose their rights to free speech when they come to school.

The Board of Education had not decided if it would appeal the decision as of March.

Hazelwood ruling fails to include college publications

MASSACHUSETTS — A federal court of appeals has said what many college student journalists were anxious to hear: the Supreme Court's Hazelwood decision does not apply to college publications.

In a case involving a contested decision by the University of Massachusetts to close a student legal services office, the court noted the difference between student publications and other organizations subsidized by a college or university.

"Having delegated discretionary editorial functions to a subordinate body [such as a student publication], the state is not permitted to revoke that delegation merely because it objects to the content of any specific decision clearly within the editorial authority of the subordinate body," the court said in Student Government Association v. Board of Trustees, 868 F.2d 473 (1st Cir. 1989). The court went on to say that the Hazelwood decision "is not applicable to college newspapers."

The decision marks the first time a federal appellate court has discussed the applicability of Hazelwood to college publications.
NEW YORK — A $6 million lawsuit filed by a former professor at Hofstra University against another professor, the school, the student paper and a student reporter has been dropped.

Joseph Fulda, an assistant professor of computer science at Hofstra University in Hempstead, filed the lawsuit over one article after the Hofstra University student newspaper, The Chronicle, printed a story in March 1988 written by Taji Clement that centered around sexual abuse and harassment charges made against a student.

In the summer of 1988 Fulda resigned his position at Hofstra. In April 1989 he filed the lawsuit claiming actual damages of $1 million and punitive damages of $5 million.

Fulda’s complaint said Clement’s story had contained information that was false and that Clement had known that the information was false or had acted with a “wanton disregard of whether it was false or untrue.”

After the lawsuit was filed, The Chronicle reported that following publication of the original story Fulda told Clement he was up for tenure in December 1988, and if he did not receive it he would be able to prove that Clement’s article had caused him financial loss.

All of the claims have now been dropped. Both parties say the terms of the settlement are confidential.

Reporters at The Chronicle would not comment on the case, and Clement’s attorney, Alan Azarra could not be reached for comment.

Frank Mina, attorney for Fulda, said that everyone involved in the case made a promise to not discuss it.

**Jaded student sets fire to paper distribution racks**

**Newspaper manager believes act was a promotional move**

OHIO — A graduate student at the University of Cincinnati burned seven of the student newspaper’s distribution racks causing $7,500 in damage in an attempt to promote a book he had written. The incident, which university officials are calling “the case of the arsonist student,” occurred when the student, Taji Brar, received a response to an ad he had placed in the student newspaper, the News Record.

Brar was charged with two counts of arson in November or damage caused to campus buildings. As of late February he was held in the Hamilton County Justice Center awaiting trial on a $20,000 bond, according to Rick Gibson, assistant prosecuting attorney.

Gibson said that Brar underwent a psychiatric evaluation to determine his sanity at the time of the incident and his competency to stand trial. Brar has requested that he be given another evaluation before the trial date is set.

The ad for his book, God, the Emotional Generator, contained only a mysterious description of the book and no information on how it could be acquired.

The ad enigmatically stated that the book would be available “In the USA, in the East, about the philosophy of your life on this planet only.”

The former business manager for the News Record, Ed Boito, said that Brar did not ask for help from the staff in designing the ad, a service that is available for those who request it.

“[Brar] came in with the ad, paid for it and left,” Boito said.

Boito believed that the arson was not a move against the newspaper because of poor book sales, but a public relations ploy to gain attention for the book.

“He wanted to get on the talk-show circuit,” Boito said.

Greg Hand, a spokesperson for the university, said the most destructive of the seven fires, causing $5,000 in damage, was set in a faculty lounge in the business building. Hand said that Brar brought the newspapers from a distribution rack in the building’s lobby to the lounge and ignited them on a chair. Another fire in the lobby of a residence hall caused $2,000 in damage when it spread to curtains hanging in a large picture window. The remaining $500 in damage was caused by the destruction of five newspaper distribution racks.

Hand said that the university will wait for the criminal case to be completed before it takes any administrative action against Brar. He said that it is possible that Brar could be allowed to finish his degree if he pays for the damage.
Settlement reached in editor’s diploma conflict

MICHIGAN — After almost three years of waiting, a former University of Michigan at Dearborn student may receive his diploma.

In a May 1988 lawsuit, Kevin Evans, editor of the Michigan Journal in the 1986-87 school year, asked a Wayne County circuit court to force the university to release his diploma. Evans also filed suit against his former newspaper for libel and against the university for violating his civil rights.

Evans completed the requirements necessary to graduate in August 1987 with a major in political science and a minor in communications.

However, the university refused to release his diploma and transcripts until Evans paid $500 and wrote a letter of apology to the university for damage done to the student newspaper’s newsroom during his tenure as editor.

The Journal article that Evans thought was libelous said that he had admitted to “certain violations” and had agreed to pay the university $250 and write two letters of apology.

Evans said the Journal never checked the facts with him.

After Evans went to court to get his diploma, he boycotted a university hearing where he was found guilty of vandalizing and burglarizing the newsroom, claiming the university had no jurisdiction in the case.

Gary Graff, a former adviser to the Journal, called the hearing a “kangaroo court,” and said it was the university’s reaction to Evans’ lawsuit.

Evans claimed the aggressive reporting style taken on by the Journal during his editorship was the cause of his problems with the university.

Evans dropped the civil rights and libel charges against the university and the Journal. He is planning to accept the university’s settlement terms by June. He will write a letter of apology to the university and pay $1,500 for fees that the university incurred during the conflict. In return, he will be given his diploma.

Evans said he has decided to stop his legal battle with the university because he wants to get the dispute behind him. He is currently the general manager of an auto shopping guide.

Maria Alfario Lopez, attorney for the University of Michigan, says that the university is waiting for Evans to accept the terms of the settlement.

Lawsuit stifle reporter’s opinion

IOWA — Despite an out-of-court settlement releasing all parties from fault in a Burlington High School libel suit, former reporter Toby Evans feels that his right to free speech was stifled.

Evans, now a sophomore at the University of Kentucky, was accused of libel after writing an article critical of Burlington High School cross country coach James Fenton. Fenton filed a complaint against Evans, school newspaper adviser David Massey and the Burlington School District for statements he claimed damaged his reputation and future teaching prospects.

After Evans, Massey and the school district tried unsuccessfully to have the case dismissed in late December on the grounds that the statements in the article were entirely opinion and thus protected by the First Amendment, Fenton agreed to drop the suit under specified conditions. Under the “no-fault” agreement, both parties signed a document releasing the other from damages due to the incident. Fenton received $5,000 for legal expenses from the school district’s insurance company.

Although the money Fenton received was not considered a “damage award,” both Evans and Massey harbor mixed feelings regarding the case’s outcome. Both maintain that Fenton was not libeled by the story and that the case was settled because it was cheaper for the school than the legal fees would have been had the case gone to trial.

continued on page 42
"From one standpoint, I'm glad it's over with," said Massey. "It was an unnecessary hassle. My problem with [the outcome] is that the issue was handled economically. I would have liked to have seen a no-fault-no-money type of settlement. I just felt that in our legal system it just doesn't seem right to pay Fenton's legal expenses. What about all our legal costs?"

Evans said that he felt both the current newspaper and individual reporters could suffer as a result of the money Fenton received.

"When I was on the newspaper staff, we were a student-run, student-operated newspaper. Massey acted as an objective adviser. Now there is this unwritten rule that a reporter cannot criticize a staff member. If you can't say anything about something you're upset about, that's taking away one of the main jobs of a reporter," Evans said.

New editor Scott Sailor said that despite the settlement between Fenton, Evans, Massey and the school district, no censorship or prior review of the paper has occurred.

"The settlement has not placed a 'clamp' of any type on the content of our paper. I don't feel that there is a 'black cloud of censorship' on the staff. This was an isolated incident. I'm not happy about [the agreement], but it hasn't caused any problems. The school administration, for the most part, supports the efforts of the newspaper staff," said Sailor.

Tufts University settles student libel lawsuit

MASSACHUSETTS—Tufts University has settled out of court with former student Ian Kremer in a libel case brought against the university and its student newspaper in 1987.

The controversy began in February of 1987 when Kremer, a politically active sophomore, alleged to have been attacked by a group of white males in what he described as a politically and racially motivated incident. Kremer said his assailants called him a "nigger lover," "Jew boy," and "Commie pinko" during the attack.

During the week following the incident, students at Tufts held protests against racism and demonstrated against the attack on Kremer.

A week after the attack, The Tufts Daily published the story of some students who were said to have been near the scene of the attack at the time that it occurred. The students said the incident never happened.

At the same time The Tufts Daily also ran an unsigned editorial criticizing Kremer for his "vile act of deception."

That night Tufts president Jean Meyer called Kremer's story a hoax. University police also questioned Kremer's story.

In April 1987 Tufts filed formal disciplinary charges against Kremer. A week later Kremer filed a lawsuit against Tufts officials and the student newspaper for defamation, violation of his civil rights and infliction of emotional distress.

Kremer was found guilty of misrepresentation by a board of three professors and two students. He was placed on a year's probation.

Later in 1987 Kremer transferred to another university.

In November of 1989 Tufts and Kremer settled his case out of court. Both sides said the terms of the settlement were confidential.

A public statement released by Tufts University said, "Kremer... expressed relief that the situation was finally resolved. Tufts expressed regret about the circumstances leading to its 1987 public statements about the matter, and wished Kremer well with his future endeavors."
CONFIDENTIALITY

Student claims story prejudiced his trial

Student body president tries to obtain reporter's notes on burglary confession

ILLINOIS — When accounts of his alleged confession to burglary appeared in a student newspaper, the Illinois State University student body president took legal action to obtain documents that he claims prejudiced his trial.

Student body president Dan Schramm, who was arrested in 1989 and charged with robbing the Alpha Kappa Lambda fraternity, tried to subpoena notes from student reporter Kent Dean verifying his account of the crime. Schramm sought legal counsel from lawyer George Taseff after an article appeared in the campus newspaper The Daily Vidette describing the student body president's confession "to burglarizing the fraternity house May 17 to finance [his] cocaine habit."

Dean attributed his information to documents he had obtained in public files in the McLean County Circuit Court clerk's office. In order to substantiate Schramm's written confession, Dean interviewed Normal Police Department detective Tony Daniels. Dean also quoted the police chief, who said that police procedures had been properly followed regarding the confession.

Scott Cooley, the editor in chief of the student paper called the subpoena "frivolous" and said that Schramm was "just trying to intimidate the press into keeping quiet about the issue."

Taseff claims however that because of the paper's large circulation, his client's right to a fair trial had been infringed. He told Editor & Publisher magazine that the Vidette "has succeeded in forming in [the public's] minds that my client has confessed. I fear the man's right to a fair trial is being eroded."

Dean's attorney, Fred Moore, said that Schramm had little basis for his legal action because Dean's information was obtained through public documents which were "available to all who sought them." He added that Dean had acted responsibly in quoting the police chief.

"At the time of the pretrial proceedings I moved to question the subpoena. I don't think Dean did anything wrong, and I think there's a real problem in Schramm's case. His attorney told him to plead guilty. When the conditions of the trial didn't look good for him, he tried to have the case handled another way," Moore said.

"When [Schramm] did that [claimed that his trial was unfairly biased by the press] he gave up his opportunity to plea bargain for a lesser sentence. Now he could face up to four years in prison."

Cooley said that Schramm's trial would not be prejudiced by the Vidette's coverage of the incident because of the paper's 20,000 readership, the majority are students.

"Students are the only ones who really read this paper — and faculty. Most of them aren't even registered to vote. Should any of them be called for jury duty, they could easily be removed [from serving]. The issue is a big deal on campus — not so much in the community," Cooley said.

A trial date for Schramm had not been set at press time.
Protecting your confidentiality

Your right to protect sources and information

This is the fourth part of a series examining the rights of journalists to refuse to reveal their sources and information. In this piece, the Report continues a state-by-state examination of state laws and privileges that allow journalists to keep information obtained during the course of their newsgathering efforts confidential and discuss how such provisions might apply to student journalists. As most states have ruled on the confidentiality of student journalists, the analysis given here represents the Report's best judgment of how a state might rule on the issue. If a state is not listed here, check past or future issues of the Report or contact the SPLC.

MAINE

Shield Law: None

In addition to their being no statutory protection, there are no reported cases in which the state's courts have recognized a common law privilege giving journalists the right to withhold confidential sources of information.

Utah

Shield Law: None

In addition to there being no statutory protection, there is no reported case law recognizing a privilege that allows a reporter to withhold confidential sources of information.

Wyoming

Shield Law: None

Wyoming journalists make promises of confidentiality at their own risk. In addition to their being no shield law, there are no reported cases in which the state's courts have recognized a common law privilege giving journalists the right to withhold confidential sources of information.

Maine courts have also never directly recognized the existence of a qualified reporter's privilege. In one of the few cases in which the issue has come up, the Maine Supreme Court has ruled that there is no First Amendment privilege allowing a reporter to refuse to testify concerning non-confidential, published information obtained from an identified source. "Maine v. Hohler," 15 Med. L. Rptr. 1611, 1613 (Maine Sup. Ct. 1988). The court emphasized that it was not ruling on the existence of a qualified privilege if the reporter refused to disclose confidential sources and unpublished information. Id. at 1612.

An earlier case, while expressing some sympathy for a qualified reporter's privilege in Maine, also carefully avoided the issue. "Matheson v. Bangor Publishing Co.," 414 A.2d 1203 (Maine 1980).

The above indicates that Maine student journalists making promises of confidentiality to their sources currently do so at their own peril.

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Students discuss racism issues
Reporters seek free press, racial balance

MICHIGAN — The Michigan Department of Education’s Office of Minority Equity held a seminar for student journalists in September 1989 to help them find a balance between freedom of the press and racial sensitivity.

The theme of the day-long conference was “Breaking Campus Barriers to Minority Success—Campus Media: Allies, Observers or Adversaries?”

Approximately 60 percent of Michigan’s colleges and universities were represented by 55 to 60 students and advisers in journalism, according to the director of the Office of Minority Equity, Earl Nelson.

The seminar was held in response to recent charges of racism on some university campuses and in some student media organizations in the state that led the University of Michigan to institute an anti-harassment policy attempting to curb racist speech on campus, according to Eugene Henderson Jr., ombudsman for the Office of Minority Equity. The university’s policy was struck down by a federal court in an August 1989 ruling as unconstitutional under the First Amendment.

Howard Simon, executive director of the American Civil Liberties Union in Detroit and a featured speaker at the conference, discussed the effect that the court’s ruling will have on colleges and universities as they attempt to implement policies that will combat racism without interfering with students First Amendment rights.

Henderson said he does not feel that the relationship between minorities and student newspapers needs to be adversarial.

“I believe that campus newspapers can really help institutions make it more comfortable for minorities,” Henderson said.

Ben Johnson, a featured speaker at the conference and editor of the Columbia Missourian, said the conference was a good way of dealing with sensitive issues. His presentation included role playing exercises that tried to blur the line between minorities and non-minorities.

An adviser for Oakland University’s Oakland Post, Jane Briggs Bunting, said that she feels the seminar helped the two student editors from her publication who attended it.

“I think it sensitized them,” Briggs Bunting said.

She feels that combined with other workshops they have attended, the Post’s coverage of sensitive issues is very good.

Supremacist paper insert discovered

ILLINOIS — At least five readers of Northern Illinois University’s student newspaper, the Northern Star, found copies of a white supremacist publication, The Truth At Last, inserted in the school paper in January.

A university official and four students called the Northern Star to report they had found the racist publication in their newspaper, according to managing editor Greg Rivara.

Rivara said the publication came out of Marietta, Ga., and appeared to have been inserted after the newspaper was distributed. It was found only in copies distributed to the student center.
Friends

SPLC gratefully acknowledges the generous support of the following institutions and individuals, without whom there might not be an SPLC, and without those whose support, defending the free press rights of the student press would be a far more difficult task. (Contributions from Nov. 14, 1989, through April 18, 1990)

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Drawings, cartoons and news tips are welcome and needed. Help us inform the scholastic journalism community by contributing your skills and information to the SPLC Report.

Write or call us at:
Student Press Law Center
Suite 504, 1735 Eye Street, NW
Washington, DC 20006
(202) 466-5242

The Report staff

Suzanne Hellyer is a senior majoring in journalism and women's studies at Michigan State University. When she graduates in December she plans to start working her way up in the newspaper business. Her long-term goals include starting her own feminist/environmentalist magazine and saving the world.

Patricia Donmoyer is a senior majoring in English and journalism at Indiana University. She is a reporter for the Indiana Daily Student and writes for the yearbook. Her long-term goals include working for a music or health magazine, writing her "Great American Novel" she's started a thousand times, seeing Europe and completing the New York Marathon in under four hours.
Students battle for access
While colleges protect their images

Typically, students begin their search for the perfect school on the pages of college guidebooks. The planning process can make college life fun in the beginning. Colleges are happy to display their offerings on athletic programs, social clubs and dormitory living to prospective students. Moreover, they are not always as eager to report about campus issues.

Jeanine Cherry, senior, LaVerne University, is in demand. She's attended every home game, tailgate, and her own version of a local restaurant. She says it's a great way to support the team.

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