

# THE IRE JOURNAL

## TABLE OF CONTENTS NOVEMBER/DECEMBER 2001

- 4** Sad events lead to reassuring journalism  
By Brant Houston
- 5** NEWS BRIEFS AND MEMBER NEWS
- 6** IRE RESOURCES ESSENTIAL FOLLOWING TERROR ATTACKS  
By Sarah Wright  
*The IRE Journal*
- 7** FOI REPORT  
FOI faces challenge in frightened nation  
By Charles Davis
- 10** REMAPPING POLITICAL SEATS:  
The good, the bad and the ugly  
By Andy Lehren  
of Dateline NBC
- 12** SUSPICIOUS DEATHS EXPOSED BY DATABASE REPORTING  
By Debbie Cenziper  
of *The Charlotte Observer*
- 15** OPEN RECORDS FIGHT REVEALS OLYMPIC MISDEEDS IN ATLANTA  
By Melissa Turner  
of the *Atlanta Journal-Constitution*
- 18** UNINFORMED CONSENT  
Risky experiments, conflicts of interest hidden by top cancer center  
By Duff Wilson  
of *The Seattle Times*



**22 – 23** PUBLIC OFFICIALS, PRIVATE DECEIT

**HIDDEN AGENDAS**  
When state legislators do public work for personal gain  
By Meleah Rush of the Center for Public Integrity

**ON THE CLOCK**  
County's top cop makes private use of deputies  
By Dale Cardwell of WSB-TV, Atlanta

**WEB GAMBLING**  
Public prosecutor lived on borrowed cash and time  
By Steve Andrews  
of WFLA-TV, Tampa

**SUPREME DEALS**  
Judges' abuse of power exposed  
By Abdon M. Pallasch and  
Chuck Neubauer of the Chicago Sun-Times

- 32** GOLF STADIUM STUMBLE  
Shady dealings land officials in sand trap  
By Gina Edwards  
of the Naples Daily News
- 34** BATTERED CARGO  
Injured van passengers point to hidden police brutality  
By Rose Ciotta and Nancy Phillips  
of *The Philadelphia Inquirer*
- 38** IN DEEP  
Covering the oceans that cover the earth  
By David Helvarg  
for *The IRE Journal*
- 40** MEDICAL WELFARE RIP-OFF  
California clinics use homeless to file false claims  
By Joel Grover  
of KCBS-TV, Los Angeles



### ABOUT THE COVER

The Maryland State House in Annapolis has been in use by Maryland's Legislature since its completion in 1779 – longer than any other state capitol.

**Cover story, page 22-23**

**Cover photo by**  
Len Bruzzese, *The IRE Journal*

## THE IRE JOURNAL

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## FROM THE IRE OFFICES

# Sad events lead to reassuring journalism



BRANT HOUSTON

The recent terrorist attacks have thrust us into an era in which the challenges for investigative reporting will substantially increase. Reporting on national security and terrorism before the attacks on the World Trade Towers was already an arduous pursuit, often based on unnamed sources, glimpses of shadowy evidence, and frustrating, redacted documents.

Now we enter a time in which there is talk of the need to limit civil liberties and to keep law enforcement activities secret. Routine skepticism may be called unpatriotic. And there will be a heavier burden than ever on journalists to collect convincing information, to resist the temptation for quick judgments and to have the courage not to retreat before government pressures to maintain secrets.

But it's heartening to review the excellent work carried out before the attacks and since. Over the past decade, investigative reporters have detailed the deterioration of the U.S. intelligence agencies and the failures of airport security.

Since the attacks, journalists from throughout the country have pieced together portraits of the terrorists and tracked the work of investigators closely. In the coming months, individual reporters and investigative teams will dig deeply into the systemic failures, both on the international and local level.

At IRE, we are gathering as many materials and databases as possible to help with this work. In the days immediately following the attacks, we distributed numerous datasets on FAA enforcement actions (see [www.ire.datalibrary.org](http://www.ire.datalibrary.org)), which include information on airport security and pilot registrations. We helped our members analyze that information and pointed them to previous stories on security in the IRE Resource Center ([www.ire.resourcecenter.org](http://www.ire.resourcecenter.org)).

Our listservs ([www.ire.org/membership/listserv.html](http://www.ire.org/membership/listserv.html)) have been busy with members sharing information on the attacks, resources and data. In the coming months, we will have workshops and conferences (Washington, D.C. in January, Philadelphia in March, and San Francisco in June) in which members will talk about techniques to use in this coverage.

We also will continue to improve our international network of members so that information gathered in different countries can be shared. Please let us know however we can help and support the critical work that you will be doing.

### Major grant received

On the day of the attacks, IRE learned that it will receive a \$2 million grant from the John S. and James L. Knight Foundation. The grant – for IRE's Endowment Fund and its annual operating budget – will be distributed over a four-year period and will help us to continue to provide training and support for our members. Half of it will take the form of a challenge grant for the endowment. For every \$2 contributed by IRE members and other supporters, another dollar is donated through the grant.

We hope the grant will be key in encouraging foundations and media corporations to contribute to IRE so that we can continue to operate at such a high level and reach our endowment goal of \$5 million. (With the grant, we now have funds and pledges that take us a little more than halfway to our goal in the first two years of our five-year drive.)

The grant will help us bolster our Web services. In addition, we are planning to do 10 one-day regional workshops around the U.S. on investigative reporting for daily and beat reporters next year. This plan is in response to the cuts in travel and training budgets that keep many members from going to our major conferences.

CONTINUED ON PAGE 42 >

*Brant Houston is executive director of IRE and the National Institute for Computer-Assisted Reporting. He can be reached through e-mail at [brant@ire.org](mailto:brant@ire.org) or by calling 573-882-2042.*

## KNIGHT FOUNDATION AWARDS IRE \$2 MILLION GRANT

The John S. and James L. Knight Foundation has awarded Investigative Reporters and Editors, Inc. a \$2 million grant – the largest grant in IRE's 26-year history.

The foundation's board of trustees approved the grant, which will be distributed over a four-year period, the foundation announced.

"Good investigative journalism is the bedrock of a free press and is an indispensable tool for citizens of a free society," said Hodding Carter III, president and CEO of the foundation.

"Bad investigative journalism is detrimental to everyone concerned – press, public and government. Our support for IRE is based on its long track record of teaching and encouraging the very best in the field. We hope a number of others will join us in giving IRE the financial stability it needs."

IRE will try to use this grant to attract other donors.

"The generosity of this grant is overwhelming," said Brant Houston, executive director of IRE. "The grant boosts our efforts in annual fundraising and in our endowment drive and allows us to focus on more services for journalists.

"Equally important, this grant comes at a time of crisis and change when investigative reporting is needed more than ever – not only to cover and probe unfolding events and systemic failures, but also to protect our civil liberties."

The John S. and James L. Knight Foundation was established in 1950 as a private foundation independent of the Knight brothers' newspaper enterprises. It is dedicated to furthering their ideals of service to community, to the highest standards of journalistic excellence and to the defense of a free press.

The partial-matching grant will support both IRE's operations and its endowment drive. IRE will receive \$500,000 for its annual operating budgets and \$500,000 for its endowment fund. Under the terms of the grant, the second \$1 million will be given out on a one-for-two matching arrangement. For every \$2 that IRE raises for its endowment, the foundation will give \$1.

## National CAR conference rescheduled for March

Because of the September terrorist attacks, the National Computer-Assisted Reporting Conference planned for Philadelphia in October has been rescheduled for March 14-17, 2002. The conference hotel has been switched to the Doubletree Philadelphia, located at Broad Street and Locust.

Along with the already-planned beat-related panels and hands-on classes on databases, spreadsheets, Internet research, mapping and statistical analysis, special sessions will be added to focus on terrorism, aviation safety and other heightened reader-viewer concerns.

To register for the conference, visit [www.ire.org/training/philly](http://www.ire.org/training/philly) or call IRE at 573-882-2042. For hotel reservations, call 215-893-1600 and ask for the IRE or NICAR room block.

## 2001 IRE Awards issues call for contest entries

IRE is now accepting entries for the 2001 IRE Awards. The annual contest recognizes outstanding investigative work in several categories, including newspaper, television and online work. Special awards also are given for organized crime reporting, FOI and student work, as well as other media categories, such as books, magazines and radio.

Entry forms can be downloaded at [www.ire.org/](http://www.ire.org/) contest and must be postmarked by Jan. 14, 2002.

## New director named for IRE Resource Center

Carolyn Edds has been named the new Eugene S. Pulliam Research Director for IRE. She will direct the IRE Resource Center, help maintain Web resources and coordinate the annual IRE Awards.

She joins IRE after two years with the *San Antonio Express-News*, where she assisted with various CAR projects and did extensive research related to census data. Prior to that, Edds worked as the news research manager for the *Herald-Journal* in Spartanburg, S.C. She has a journalism degree as well as a master's degree in library and information science.

## Missouri student chosen for working fellowship

Gina Bramucci, a Missouri School of Journalism graduate student, is the latest recipient of the Brent Johnson Memorial Fellowship.

The working fellowship was created to honor an MU graduate student and IRE employee who died in April 1999. The fellowship, established with gifts from IRE members, Johnson's family and friends, allows an MU graduate student to work on IRE publications.

Bramucci, who recently completed a three-month writing project in Uganda, will work as an editorial intern for *The IRE Journal*.

## MEMBER NEWS

**Jennifer Barnett** is now covering statewide education issues for *The Tennessean*. ■ Following a yearlong fellowship with the Inter American Press Institute in Lima, Peru, **Sonja Bjelland** has joined the Bonita Springs bureau of the *Naples Daily News*. ■ After a brief period reporting for Reuters in Jerusalem, **Michael Carney** is now working at the online news desk of the Reuters Washington bureau. ■ Former IRE Resource Center director **Pat Coleman** has joined US Investigations Services in Los Angeles. She will be performing national security background checks on behalf of the Office of Personnel Management. ■ **Deborah Crowe** is now a business reporter for the *Ventura County Star*. She is covering personal finance and the economy, as well as the healthcare, biotechnology and insurance industries. ■ **Sharyn Flanagan** has been elected a parliamentarian for the National Association of Black Journalists. She will serve on the association's board of directors for the 2001-2003 term while continuing her role as a copy editor for *USA Today*. ■ **Amy French** is reporting on statewide education and the Catawba Indian Nation for *The Charlotte (S.C.) Observer*. ■ Missouri School of Journalism graduate **Jason Grotto** is now the CAR database editor for *The Miami Herald*. Grotto, who worked as a data analyst for IRE and NICAR while pursuing his degree, now will be working with *The Herald's* investigative team. ■ **David Kaplan** has moved from senior writer to deputy investigations editor at *U.S. News & World Report*. He also is involved in IRE's international training. ■ After completing a residency with the *Chicago Tribune*, **Maura Kelly** is reporting for the Associated Press in Chicago. ■ **Ray Locker**, formerly of the *Los Angeles Times*, has joined the Associated Press as the Sacramento correspondent, directing state government and political coverage. ■ **James Neff** of *The Seattle Times* (and current IRE Board chairman), will have his book "The Wrong Man: The Final Verdict on the Dr. Sam Sheppard Murder Case" published this month by Random House. While writing the book, Neff successfully fought

CONTINUED ON PAGE 42 ➤

Send Member News items to Len Bruzzese at [len@ire.org](mailto:len@ire.org) and include a phone number for verification.



Fire and smoke billow from both World Trade Center towers the morning they were attacked by terrorists.

# IRE RESOURCES ESSENTIAL FOLLOWING TERROR ATTACKS

BY SARAH WRIGHT  
OF *THE IRE JOURNAL*

**A**t 8:45 a.m. on Sept. 11, a hijacked commercial passenger jet crashes into the north tower of the World Trade Center. Not 20 minutes later, a second hijacked plane hits the south tower and explodes.

The president calls the crashes acts of terrorism. The Federal Aviation Administration grounds all flights, but some flights are still airborne. Within the hour, another hijacked flight crashes into the Pentagon. Yet another crashes in rural Pennsylvania. Its intended target is unknown, but it is believed that some of the passengers rushed the hijackers.

As the day wears on, both towers of the World Trade Center collapse, federal buildings

are evacuated, incoming international flights are diverted to Canada and the military is placed on highest alert. Estimates of the dead and missing range wildly. As of this printing, there are close to 6,000 missing or dead.

Within minutes of the first incident, the telephones at IRE started ringing. Reporters turned to IRE in the hours following the crash to help them add context to their breaking stories. They continue to return to help add depth to their analyses.

From its reporter tipsheets, beat books and vast collection of award-winning investigative stories to its library of government databases, IRE and its National Institute for Computer-Assisted Reporting stand ready to help journalists get a

grasp on this major story, says IRE Executive Director Brant Houston.

## FAA data in high demand

“IRE was right there for us on deadline in the World Trade Center disaster,” said Paul D’Ambrosio, investigations editor at the *Asbury Park (NJ) Press*.

The NICAR Database Library, a joint program of IRE and the Missouri School of Journalism, fielded a crush of orders for FAA data and GAO reports detailing airline safety. The requests came from more than transportation reporters.

“Before Sept. 11, 2001, I had never written a story about airline safety,” said Ken Ward, Jr., of

*The Charleston (W.Va.) Gazette*. He and Larry Messina used the FAA database on “enforcement actions” to analyze the safety situation at local Yeager Airport. Their findings? Yeager had more security breaches than similar-sized airports. Using the same data, Ziva Branstetter, projects editor of the *Tulsa World*, turned up similar stories about Oklahoma’s two major airports.

The FAA enforcements database was the most-requested data. It details actions against airlines, pilots, mechanics and designees showing security breaches and safety concerns at the nation’s airports.

Some newsrooms already order the data from IRE and NICAR on a routine basis and were thankful that they could move from analysis to the story that much faster.

“It once again showed the power of having a well-stocked database library when a big story breaks,” said David Heath, with *The Seattle Times*.

During the week of the attacks, Heath noted that “NICAR’s data has been invaluable on several occasions.”

NICAR data is called “clean” data; inconsistencies and blank fields have been removed, saving reporters valuable time on deadline. (The FAA media office was on overload, and didn’t have time to answer every reporter’s questions. It also removed the data from its Web site shortly after the crashes. IRE was one of the few places where the data could be had.)

“Without IRE, we would have been forced

CONTINUED ON PAGE 8 >

## TIPSHEETS

Those following up on the terrorist attacks can try some of these tipsheets available from The IRE Resource Center:

- Nuts and Bolts of Aviation Safety, #1210
- Nuts and Bolts of Aviation Safety (part 2), #1211
- General Aviation Primer, #881
- Polk Seminar on Public Safety, #1286
- Dissecting Aviation Disasters, #1142
- How to Cover a Crash, #882
- Resources on the discussion about the trade-offs in a free society between civil liberties, the First Amendment and the battle against terrorism, #1485
- Covering the Post-Cold War military and Defense Industrial World Terrorists, #1405
- Covering Terrorists and Fringe Groups, #1168

These can be found through the IRE Web site at [www.ire.org](http://www.ire.org) or ordered by calling 573-882-3364.

## FOI faces challenge in frightened nation

“**C**ourage,” a colleague noted the other day, is a word often being used in the days and weeks following the horrific terrorist attacks on New York City and Washington, D.C.

Courage, it seems, is defined by some political leaders as our willingness to surrender hard-fought liberties in exchange for some measure of security, perceived or otherwise.

The horrific Sept. 11 terrorist attacks on the World Trade Center and the Pentagon sent us all reeling. Like many others, my emotions range from feelings of rage at the hijackers to unspeakable grief for the thousands who were murdered. Yet I can’t stop thinking about the potential for disaster if we make policy by acting on these overwhelming emotions. Now, more than ever, we need time to reflect on the consequences of our actions – before, not after, we take action.

A quote from Minority Leader Richard A. Gephardt (D-Mo.), keeps running through my mind: “We’re in a new world where we have to rebalance freedom and security,” Gephardt said. “We’re not going to have all the openness and freedom we have had.”

Perhaps. But in following the comments of our elected and appointed officials in Washington, one would believe that we have nothing to protect us from terrorists but classification, secrecy and loss of civil liberties. That’s not courageous at all, but a surrender of precious, unique American freedoms, all in the name of global law enforcement.

### Targeting FOI

To remain independent, to stand above the fray and question government in times of crisis, is courageous. To counter the populist wellspring unleashing itself as a nation girds for war, is courageous. A Pew Center poll a week after the bombings showed that more than 70 percent of the American people were willing to relinquish at least part of their right to privacy for greater security.

The politicians, keen observers of such poll data, are eager to take a tough stand against

terrorists. Law professors, journalists, historians, authors – I have heard even the most insistent First Amendment advocates backpedal a bit when faced with such overwhelming pressure to surrender our civil liberties.

There is little doubt that civil liberties, including freedom of information, will be targeted by those who would cede limitless powers to law enforcement. The early evidence is not encouraging:

- FBI officials went straight to many of the nation’s Internet service providers, who coughed up reams of e-mail data without so much as an evidentiary hearing.
- In a recent newspaper interview, Rep. Mary Bono (R-Calif.), proposed a national identification card.
- Self-censorship is teaming with direct threats against the news media. The world’s largest radio station owner sent its stations a list of 100-plus songs it “urged” DJs not to play. A wire service withheld news footage of the post-attack celebrations following Palestinian threats against a photographer. Sears and Federal Express yanked ads from the show Politically Incorrect to punish host Bill Maher’s opinion.

### Terrible public policy

The freedom of information movement, no font of good news these days anyway, will witness a fresh round of proposals aimed at limiting access to information about the very things the American people most need to know about.

The attacks revived discussion of the Cyber Security Information Act, introduced last year by Reps. Tom Davis (R-Va.) and James Moran (D-Va.). The act would allow private sector companies to share ill-defined “vulnerability information” with the government completely exempt from the federal Freedom of Information Act, despite the fact that existing FOIA exemptions for commercial and financial secrets and



CHARLES DAVIS

CONTINUED ON PAGE 9 >

*Charles Davis is executive director of the Freedom of Information Center, an assistant professor at the Missouri School of Journalism and a member of IRE’s Access and Reporters’ Rights Committee.*

## FAA data offers stories for every newsroom in U.S.

By Jeff Porter  
of The IRE Journal

**T**errorism struck home Sept. 11, 2001, and across the country, newsrooms struggled with the stories.

Even for reporters thousands of miles away from the attacks, their readers and viewers did have at least one thing in common: Everywhere, people travel by air. So reporters began digging into the database of Federal Aviation Administration enforcement actions to find stories about their local airports.

The IRE and NICAR data library was deluged with telephone calls and data orders. IRE set up delivery via its FTP server. The data was on the regular schedule to be updated in October, so IRE pushed to update it even sooner. A series of text files was obtained from the FAA and turned into a series of dBase IV files so journalists could use the data in almost any database program.

That turned out to be a good decision. A few days later, the FAA turned off the data spigot. It could no longer be downloaded. It seems that the data was suddenly deemed "sensitive." Because of that, editors and reporters found interpreting the data daunting, with little help from the FAA. Both the data library and the NICAR-L e-mail discussion list agonized about trying to find answers about the complicated enforcement data.

Russ Clemings of the *The Fresno Bee* in California, found some discrepancies in the FAA's updated data, and IRE quickly discovered data entry inconsistencies affecting 567 of the 380,520 records in the main data table. The same day, IRE made cleaner data available, again through FTP.

The stories were many. Newspapers and television stations, from one coast to the other, examined in detail the security status for their local airports. Often, they used other data sources or paper records to flesh out their stories – for example, John Perry of *The Daily Oklahoman* used local police reports to confirm much of what he found in the data and find narrative detail.

Still, the FAA enforcement database isn't the only potential resource.

Using the FAA's airmen directory – a listing of most pilots certified by the U.S. government – reporters have found basic information about some of the hijackers. News organizations have looked at federal contracts to find the most likely companies to profit in the face of military buildup. Now, while airlines are seeking a federal bailout, reporters are considering stories about linking that industry to campaign contributions, using data from the Federal Election Commission.

If you're working on this story, here's a list of other databases, available through the NICAR data library (<http://www.ire.org/datalibrary/databases>), that are potentially relevant:

- Aircraft registry. The aircraft registration database, maintained by the FAA, includes information on more than 320,000 registered aircraft. These include all aircraft owned by individuals, businesses and governments in the U.S. Resident aliens may also register planes in the U.S., as long as it is not registered in another country at the same time.
- Air safety reports. The Air Safety Reporting System database consists of anonymous reports about aviation safety. Anyone is eligible to file a report, including air traffic controllers, pilots, flight attendants and passengers.
- NTSB. The National Transportation Safety Board database contains information on civil aviation accidents and incidents, including pilot, crew and airplane descriptions, and environment conditions.
- Accidents and incidents. An FAA database of mainly U.S. accidents or incidents, including crashes, collisions, deaths, injuries or costly damages.

For more information, contact the database library at 573-884-7332.

*Jeff Porter is the director of the IRE and NICAR Database Library and an instructor at the Missouri School of Journalism. He joined IRE this year after working as a computer-assisted reporting specialist at the Arkansas Democrat-Gazette in Little Rock. Reach him at [jeff@ire.org](mailto:jeff@ire.org).*

CONTINUED FROM PAGE 7

to wait days or weeks to have those questions answered by the FAA," says Doug Haddix, projects editor of *The Columbus Dispatch*. "On a competitive news story, we simply didn't have that luxury of time."

The FAA enforcement actions database is one of 33 databases offered by IRE through NICAR. All data comes with a built-in service contract. The same staff that cleans the data is on hand to answer data questions, check a reporter's methodology or act as data consultants on certain stories.

### Investigative story archives

Another resource reporters can tap is an archive of more than 18,000 investigative stories filed and indexed at the IRE Resource Center. The center is searchable via the Web ([www.ire.org/resourcecenter](http://www.ire.org/resourcecenter)). Since the attacks, more than a few stories turned out to be relevant. They include:

- A 1997 U.S. News & World Report article detailing how terrorists and rogue governments had greater access to weapons of mass destruction in the post-Cold War era. (#14233)
- A PBS broadcast on the networks of Islamic extremists in America. (#10650)
- *The New Yorker's* look at how the CIA trained militants during the Afghan war who would later target the World Trade Center in 1993. (#12258)

Many of the stories in the Resource Center were submitted to the annual IRE Awards contest. Those who enter the contest answer a questionnaire giving a behind-the-scenes look at how the stories were completed. Reporters tell of the difficulties they encountered and offer advice to other reporters working on a similar story.

Aside from the story archives, many reporters have used the IRE tipsheets that offer straightforward reporting advice, from one journalist to another. Many of these tipsheets are available at the Web site.

Recent critical tipsheets have included Bloomberg reporter Tony Capaccio's guide to covering the military (#1405) and "Covering Terrorists and Fringe Groups," a joint effort from James Risen of *The New York Times*, Kim Murphy of the *Los Angeles Times*, and Olive Talley of Dateline NBC (#1168). Other tipsheets address First Amendment rights, national security and aviation issues.

### Listservs in a pinch

Activity has spiked on the IRE listservs as well. Found at [www.ire.org/membership/listserv](http://www.ire.org/membership/listserv),

the seven electronic mailing lists offered a lifeline, a last-minute check, and some comfort in the usual bickering and bantering of Nostradamus predictions.

Frequently the most prolific of all the listservs, NICAR-L saw more than 100 postings in the week following the attacks. Requests went out for a listing of businesses housed at the World Trade Center, listings of military bases, information on Less Dorr of the FAA. In the days after the attack, stories, pulled from IRE data, continued to be a posting topic.

Topics ranged from Pinkerton employment qualifications to security precautions set up for the Jewish high holy days.

IRE has continued to post terrorism-related resources on its Web site. The IRE home page ([www.ire.org](http://www.ire.org)) has shortcuts to the most vital information, and suggestions for other resources are welcome at the IRE Resource Center, 573-882-6668.

*Sarah Wright, a researcher with IRE and NICAR, recently completed graduate work at the Missouri School of Journalism.*

## WEB LINKS

Those looking for online information, insight or sources in following this story can look at several categories, including:

### ARAB AMERICANS

**The Detroit Free Press Arab American Guide:** [www.freep.com/jobspage/arabs](http://www.freep.com/jobspage/arabs)

### AVIATION

**Flight Tracker:** [www.thetrip.com](http://www.thetrip.com)

**Landings.com search page:** [www.landings.com/\\_landings/pages/search.html](http://www.landings.com/_landings/pages/search.html)

**FAA International Aviation Safety:** [www.faa.gov/avr/iasa](http://www.faa.gov/avr/iasa)

**FAA Office of System Safety:** [http://nasdac.faa.gov/safety\\_data](http://nasdac.faa.gov/safety_data)

**FAA office of Criminal Acts Against Civil Aviation:** <http://cas.faa.gov/crimacts>

**Air Combat Command Links:** [www.af.mil/sites/acc.shtml](http://www.af.mil/sites/acc.shtml)

**The Office of Airline Information:** [www.bts.gov/oai/indicators/top.html](http://www.bts.gov/oai/indicators/top.html)

### CRIMINAL JUSTICE AND POLICE AGENCIES (INTERNATIONAL):

**Dr. Frank Schmalleger's Criminal Justice Directory:**

<http://talkjustice.com/files/page13.htm>

**Police Agencies of the World:** [www.copnet.org/local/index.html](http://www.copnet.org/local/index.html)

### DISASTER AGENCIES

**FEMA's response to the terrorist attacks:** [www.fema.gov/nwz01/nwz01\\_91.htm](http://www.fema.gov/nwz01/nwz01_91.htm)

### GEOGRAPHY

**CIA World Factbook:** [www.cia.gov/cia/publications/factbook/](http://www.cia.gov/cia/publications/factbook/)

### JOURNALISM

**The Dart Center for Journalism and Trauma:** [www.dartcenter.org](http://www.dartcenter.org)

**News Librarians' research queries after 9/11:**

[www.ibiblio.org/journalism/NWSworldtradecenter.html](http://www.ibiblio.org/journalism/NWSworldtradecenter.html)

### TERRORISM

**Notice in Federal Register of Terrorist Organizations (1997):**

[www.usis.it/file9801/alia/97100808.htm](http://www.usis.it/file9801/alia/97100808.htm)

**Foreign Terrorist Organizations:** [www.state.gov/www/global/terrorism/fto\\_1999.html](http://www.state.gov/www/global/terrorism/fto_1999.html)

**Patterns of Global Terrorism:** [www.state.gov/www/global/terrorism/gt\\_index.html](http://www.state.gov/www/global/terrorism/gt_index.html)

**U.S. Government Interagency Domestic Terrorism Concept of Operations Plan:**

[www.fas.org/irp/threat/conplan.html](http://www.fas.org/irp/threat/conplan.html)

**Counter-Terrorism Page:** [www.emergency.com/cntrterr.htm](http://www.emergency.com/cntrterr.htm)

**LexisNexis Disaster Links:** [www.lexisone.com/news/nlibrary/b091201g.html](http://www.lexisone.com/news/nlibrary/b091201g.html)

### NEW YORK

**CoStar Group:** [www.costargroup.com/wtc](http://www.costargroup.com/wtc)

**Go-New York City:** <http://go-newyorkcity.com/manhattan/0018index.html>

**The Skyscraper Museum:** [www.skyscraper.org/tallest/t\\_wtc.htm](http://www.skyscraper.org/tallest/t_wtc.htm)

## FOI Report

CONTINUED FROM PAGE 7

law enforcement records already protect the sensitive portions of such filings.

But should all such information be exempt? Certainly not. Try an analogy: This is like the airline industry convincing Congress that it will share information about safety defects in planes, but only if that data is never revealed to the public. It's terrible public policy, and journalists must be courageous enough to say so.

Remember the fight in August over the revived anti-leaks legislation? That bill died after a furious counteroffensive by editorialists and civil libertarians. Imagine the political capital behind such a measure now.

And don't even think about flag burning. The Flag Desecration Act, that timeworn bastion of political correctness, is sure to be trotted out again – probably right around election season – to a nation hungry for causes. Two United States Supreme Court decisions and three failed efforts at a constitutional amendment later, the forces behind this rewrite of the First Amendment will be hard at work. Again, it will take real courage to oppose this wrongheaded move.

All of which leads us to the Combating Terrorism Act of 2001, an amendment to an appropriations bill that was passed by the Senate on Sept. 13 with no hearings and with little floor debate. Section 832 of the act seeks to enhance the government's ability to capture information related to a suspect's activities in cyberspace by allowing investigators to review a suspect's entire Internet history – URLs, e-mail addresses, any attachments opened, and much more.

Such legislation may well be necessary, and may also pass judicial review. Unless challenged by a courageous press, however, Congress will not take its time to examine any new Internet surveillance legislation with great care. Indeed, it has not even held a public hearing on one of the greatest incursions into personal privacy in recent history. Journalists, thus far, remain silent on the issue.

The type of nation we become after this life-changing event depends, to some degree, upon what kind of journalism we pursue. Now is the time, more than ever, to challenge dogmatic thought, to spurn jingoistic displays of patriotism and to reinvigorate the Fourth Estate.

Perhaps Benjamin Franklin said it best: "They that can give up essential liberty to purchase a little temporary safety, deserve neither liberty nor safety."

# REMAPPING POLITICAL SEATS:

## The good, the bad and the ugly

BY ANDY LEHREN  
OF DATELINE NBC

**T**he good news: This book does offer one highlight on how journalists have covered the redrawing of legislative districts.

The bad news: It happened in 1812.

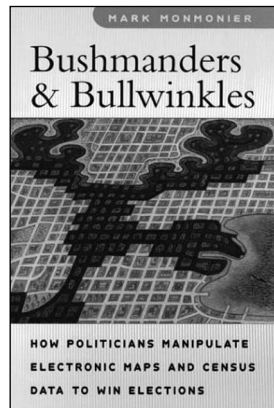
That's when the partisan *Boston Gazette* reported on how Governor Gerry and his dominant party in Massachusetts redrew Senate seats. Gerry's party packed the opposition into a few strongholds. They jammed them into odd-shaped districts. The result maximized the number of seats that Gerry's side would probably win in the next election.

One reporter cracked that one proposed district was so bizarrely shaped, it looked like a salamander. The story goes that his editor barked, "Salamander! Call it a Gerrymander!" A cartoonist captured the idea, sketching an evil reptile on a map of the Senate seat.

That's the etymology of gerrymander, what Monmonier calls the "political pejorative" for remapped congressional seats. You may know it from high school civics classes. (And in case you're wondering: the Syracuse University professor reminds us how to pronounce the word. It's with a hard g, like get. That's how the governor pronounced his name. Even though Webster's dictionary claims it should be with a soft g, like a j in jelly.)

This book is not written as a critique of how journalists have covered redistricting, but you can read it that way. And if you're covering that issue these days, it's just one of several reasons why it's worth having on your desk.

When Monmonier mentions journalistic contributions to the debate, it's mainly for other ways we've come up with for saying gerrymander.



**Bushmanders & Bullwinkles: How Politicians Manipulate Electronic Maps And Census Data To Win Elections**  
By Mark Monmonier  
The University of Chicago Press, \$25, 208 pages, hardback

Some of the more imaginative phrases from a decade ago came from the *Wall Street Journal's* editorial page quip meisters. They called one North Carolina district "computer-generated pornography," and another "a bug splattered on a windshield." But Monmonier does not place a high value on name-calling. What he's really after is analyzing how and why geographical shape is an issue of fairness. Is it best that the victors get the spoils so the party in power is allowed to maximize gains? Or is it better when remapping promotes predominately minority districts, fulfilling the Constitution's equal-protection

clause? Is it better to have a district that is compact, and looks like a simple geometric shape you'd find in a baby's playpen? Or should divisions ride along economic similarities?

### Maximizing opportunities

Monmonier makes a strong case for digging into remapping, and this book can help any reporter cover the subject. And if you don't think redistricting matters, look back a decade ago.

Monmonier argues Bush helped set the stage for the 1994 Republican House victory. He sees more than a Clinton backlash. In Monmonier's version of events, the Bush Justice Department encouraged states to pack minorities

into certain districts. Minorities tend to favor Democrats. While the Bush administration cemented a minority district here and there, it

fostered more Republican districts. To boot, GOP candidates got one more campaign issue: They could rail against odd-shaped minority districts as another affront caused by affirmative action.

So, Monmonier argues, Bush's Justice Department did just as Governor Gerry's party. It jammed the opposition into a few places and maximized opportunities elsewhere. Hence the "Bushmanders" in the book's title.

There is another method for gerrymandering. Aside from packing opponents into one seat, they could also be spread out among several districts – so diluted they won't win a thing. This is called "cracking." Through the ages, the game of gerrymandering comes down to packing and cracking the opposition. The result can lead to geographic shapes that seem unfair. These can work on party lines or racial and ethnic divisions.

The approach has not changed much since the days of Gerry. But the technology is radically different. Now we have the computer. With mapping software, it's much easier to figure out the best way to pack and crack. This may be the biggest opening for reporters. It's certainly been a lucrative business in the past few decades for the geographers consulting with politicians.

These days, journalists can go beyond the routine of simply noting what the two parties claim, to see who really wins and loses under various redistricting proposals. And there are always winners and losers.

Monmonier recounts how activists in Georgia countered opponents, and proved it was possible to have three predominately minority districts in the state. And that fact changed the debate about what was doable.

Today, journalists skilled in mapping software like ArcView, Map Info or Maptitude can use some of Monmonier's approaches to look at redistricting plans. Which party will really win in your state? Which race or ethnicity is making the biggest gains? Will suburbs rule more? Incumbents are often the beneficiaries – do they win this time around? Are there alternatives that the two parties are not talking about?

Monmonier doesn't spell out exactly how to use software to answer these questions. He's not one to write deeply on that. But he gives a good outline for reporting out this story.

For instance, when it comes to shape, Monmonier describes two ways to analyze

CONTINUED ON PAGE 43 >

**Mark Monmonier, author of "Bushmanders & Bullwinkles" will be a featured speaker at the National Computer-Assisted Reporting Conference set for March 14-17 in Philadelphia.**





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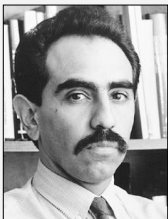
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# SUSPICIOUS DEATHS EXPOSED BY DATABASE REPORTING

BY DEBBIE CENZIPER  
OF THE CHARLOTTE OBSERVER

I never thought I'd spend the better part of two years writing about death.

It started with a quick call to the state vital records' office to retrieve a database on deaths that had been used mostly by doctors and researchers. I figured we could use it to see if patients were dying unexpectedly in North Carolina's mental health facilities.

They were, and *The Charlotte Observer* published a five-part series about it, called "Broken Trust," in January 2000.

Turns out, there was much more to write.

The detailed death file listed information on 370,000 deaths – every death in North

Carolina since 1994. We had dozens of story ideas, and eventually produced not one, but three high-impact series in 2000 and 2001.

Compiled from vital records for state and national health data, the database offered information such as a decedent's name, age and residence. It identified deaths in facilities such as hospitals and nursing homes. It listed codes for cause of death, such as suicide, drowning and choking. And it helped us quickly get our hands on one of the most useful public documents around: the death certificate.

In the first series, we found 34 unexpected or violent deaths in mental health facilities.

There were suicides, murders, scaldings and falls. Patients had suffocated, starved, choked, drowned. In most cases, the deaths had never been investigated because state regulators didn't know about them.

## Autopsy confirmation

With help from *Observer* database editor Ted Mellnik, who used Access to filter the database in a number of ways, we were able to get a list of potentially suspicious deaths and death certificate numbers.

For more details, I looked up hundreds of certificates by hand. The certificates gave us information such as the address where the death took place, more on the cause of death, and names of the decedent's relatives. Because some information on death certificates can be unreliable, I confirmed facts using hundreds of autopsy, Medicaid and police reports and complaint files for group homes and hospitals.

I also used 911 call records and other documents to find suspicious deaths that did not appear on searches within the database, such as deaths in private homes.

Then I found Charlotte families like the Cullens. In 1996, their 13-year-old son, Cameron, had tied a bedsheet over the door in a Charlotte psychiatric hospital and hanged himself. He had spent three days alone in an isolation room even though he had talked of suicide. After his death, his parents discovered he had sold his Converse sneakers and sweatshirt to other patients and left his money – three small piles of change – to his parents and younger brother.

State regulators never knew Cameron had died; now the state is investigating his case. State legislators have since passed two laws to better protect mental health patients, including one that requires all facilities to report deaths to state regulators.

In July 2000, we used the database and death certificates a second time for another series on mental health care. This time, we focused on suspicious deaths of the disabled in rest homes and nursing homes. We found at least 18 cases.

## Undetected homicides

We had become extremely familiar with the database by then and decided to use it a third time for a five-part series called "Grave Secrets," published last February. The stories found that errors and oversights within

Jeff Siner | The Charlotte Observer



Dr. Patrick Lantz, a forensic pathologist, looks at a homicide victim before an autopsy. A state database on every death in North Carolina led to stories about abuses in mental health facilities and suspicious deaths that were not investigated.

the state's nationally acclaimed medical examiner system have jeopardized hundreds of death investigations in recent years. Medical examiners failed to detect at least five homicides, including three in which bodies had to be dug up for autopsy. And they regularly failed to order autopsies in suspicious cases even though autopsies are vital in pinpointing cause of death and detecting foul play.

Take the case of Mabel Moses, found in 1996 submerged in a claw-foot bathtub. A medical examiner concluded she died of natural causes. There was no scene investigation, even though 90-year-old Moses likely could not have stepped into the steep-sided tub herself. She had knee and hip replacement and could barely walk. There was no autopsy, even though she had never had a problem with her heart.

Three years later, while investigating another case, Raleigh police started suspecting a nursing aide had stolen Moses' money, then drowned her. Her body was exhumed for autopsy. The pathologist concluded the case was a drowning; there were no signs of heart

## MENTAL HEALTH RESOURCES

A tipsheet, "Cries of Anguish" (#1153) by the National Alliance for the Mentally Ill, is available from IRE's Resource Center ([www.ire.org/resourcecenter](http://www.ire.org/resourcecenter)). In this follow-up report to the *Hartford Courant's* 1998 "Deadly Restraint" investigative series that exposed patient abuse in psychiatric facilities, the National Alliance for the Mentally Ill chronicles a continuing pattern of abuse and restraint, largely of child patients under five years old. Abuse was often repeated, and multiple cases resulted in death. The tipsheet comes with a chart listing incidences of abuse across the country occurring after the *Courant* report.

Or, consider "Catch Us if You Can" (#17221), by Margaret Downing and Brian Wallstin from the *Houston Press*. This Nov. 9, 2000, story looks into a public mental health system that is underfunded with overworked employees who don't have time for patients.

Also, try "Police Confronting the Mentally Ill Yields Flawed Probes, Bad Tactics and Deadly Results" (#16063) in the *Los Angeles Times* on Nov. 7, 1999. This story, dealing with the shooting and death of a mentally ill woman by a police officer, sparked debate about how the police respond to the mentally ill. The two-part series raised questions about tactics and the use of deadly force.

To order, call the Resource Center at 573-882-3364.

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disease. The aide has not yet been charged with Moses' death, but she's on death row for the killing of another patient.

The database this time around gave us information about whether autopsies were ordered in crucial cases, such as children's deaths and homicides. We also used dozens of police reports, and a second, more detailed database of deaths provided by the medical examiner's office. The state is now overhauling the medical examiner's system for the first time in 35 years.

Both series presented a number of reporting challenges. Often, we found incredible information on death certificates but families were reluctant to share details, citing embarrassment or the need for privacy. During the reporting of the mental health series, state officials closed access to psychiatric hospitals. While reporting the medical examiner series, we spent days trying to convince doctors to grant access to death investigations. Finally, one helpful forensic pathologist let us watch a couple of autopsies. (I'll never forget a sign in the lab, hanging over a bucket of body parts. It said something like, "No eating or drinking in the morgue.")

Another challenge: Figuring out the nuances of international death codes. There are literally thousands of codes listing specific causes of death. We regularly relied on pathologists and state and national health statisticians for assistance.

**Story tips, ideas**

Despite those obstacles, death database reporting can yield dozens of stories. Some ideas: drug-related deaths by county; gunshot deaths of teenagers; suicide rates among the elderly; and deaths on military bases.

A couple of tips:

- When requesting the database from your state, make sure you request a detailed death file, which in North Carolina includes death certificate number and personal identifiers. States that won't release the detailed file, such as South Carolina, should still release a more general database of deaths.
- Line up a good pathologist, preferably a forensic pathologist, willing to walk you through medical terminology. The doctor also can help analyze autopsy reports and tell you which deaths are suspicious.
- Make friends with the statistician in your state's vital records office for help understanding the database and its codes.
- Use other public records, such as death certificates, autopsy reports and police reports, to confirm information you get from the database.

*Debbie Cenziper has worked at The Charlotte Observer since 1995. She is a member of the newspaper's investigative team. The "Broken Trust" series is posted on the Observer's Web site, [www.charlotte.com/special/mentalhealth](http://www.charlotte.com/special/mentalhealth). "Grave Secrets" is posted at [www.charlotte.com/observer/special/deaths](http://www.charlotte.com/observer/special/deaths).*

Layne Bailey | The Charlotte Observer



York County Coroner Doug McKown picks up small human bones in a wooded site where a unidentified body was found. Volunteer Shelly Wood and her German shepherd Binka assisted in finding the site.

# OPEN RECORDS FIGHT REVEALS OLYMPIC MISDEEDS IN ATLANTA

BY MELISSA TURNER  
OF THE ATLANTA JOURNAL-CONSTITUTION

Until a newspaper columnist was handed a revealing memo in February 1999, Atlanta was prepared to believe Billy Payne's assertions that he never did anything like those guys in Salt Lake City who were accused of buying the 2002 Winter Olympics.

Payne was a local hero. He had led the campaign to bring the 1996 Summer Olympics to Atlanta. And he went on to head the organizing committee that staged the biggest Games in history and left behind a half-billion dollars worth of sports arenas and college dormitories.

A bronze statue of him even stood in the new downtown Centennial Olympic Park.

Ever since the Salt Lake City bribery scandal had broken, Payne had insisted publicly that his team didn't buy votes for Atlanta. They didn't give expensive gifts or provide extravagant favors to International Olympic Committee members.

"We ain't perfect," Payne repeated again and again, "but we didn't bribe anybody."

But after reading several stories of Payne's protestations of innocence, a former Olympic staffer, never identified publicly, contacted a *Journal-Constitution* columnist and turned over a copy of a memo he had saved for years. The two-page memorandum, written by Payne on Aug. 20, 1990 – one month to the day before the IOC's vote to award the 1996 Olympics – was a list of last-minute "gifts" the bid team should wrap up.

## Extensive pampering

Among the gifts: a college scholarship for the daughter of the IOC member from Hungary and free medical treatment at the

Emory University Clinic and airline tickets for the fellow from Libya. The list went on. It was the first evidence Payne even considered gratuities for IOC members that he said in earlier interviews about the Salt Lake City scandal were "out-of-bounds."

Payne had freely acknowledged extensive pampering of visiting IOC members during the bid effort. That pampering included first-class air travel, luxury accommodations, dinner in private homes, chauffeured tours, escorted shopping trips and countless small gifts.

But he scoffed when Salt Lake City bid leaders hinted that Payne and his bid team chairman, former Atlanta mayor and United Nations Ambassador Andrew Young, had created the "model" for their tainted bid campaign that followed on the heels of Atlanta's.

The memo, which Payne acknowledged he had written only after the original was found in a search of Olympic records, couldn't be ignored. It proved that Payne's team at least considered the same kind of shenanigans that landed Salt Lake City's team in hot water. But more important, it proved written documentation that would either verify Payne's claims of innocence or debunk them still existed.

So began my effort to gain access to some 1,400 boxes of memos, letters, meeting minutes and handwritten notes compiled by Atlanta's Olympic officials over their decade-long campaign to win and organize the Games. Those boxes would eventually lead to my eight-part behind-the-scenes look into the inner workings of the Olympic organizing committee.

## Official records secreted

From my first request to review the Olympic records, Payne's lawyer asserted the boxes were private property and, at the very least, "too disorganized for public scrutiny."

In fact, the same source who turned over the memo also delivered an inventory of about 1,000 of the boxes stored in a locked climate-controlled vault at the Atlanta History Center. Inside was a treasure trove of documents that would detail the historical record of the Games.

A public relations consultant was brought on board; the Olympic legal team at Atlanta's silk stocking King & Spalding was revved up. Payne's position was unwavering: The Olympic bid was a private endeavor by private individuals, who were not subject to Georgia open records laws.

Payne, a former University of Georgia football star and suburban Atlanta real estate



Atlanta Committee's Billy Payne with Olympic mascot Izzy.

attorney, had formed in 1987 a nonprofit Georgia Amateur Athletic Foundation to pursue the Games. He had recruited a handful of friends, mostly lawyers and affluent housewives, to join him in what he deemed a Quixotic effort. These were not public figures. These were "volunteers," who had embarked on a heroic civic mission, contended his attorney, Joseph Bankoff. At that time, there was still a great deal of public sympathy for that view.

John Walter, then-managing editor of the *Journal-Constitution*, wrote Gov. Roy Barnes explaining the newspaper's position and seeking his high-powered influence.

"Recent disclosures about the bidding

John Spink | The Atlanta Journal-Constitution



Boxes and boxes of Olympic Committee files stored and archived at the Atlanta History Center hold all the procedures and records of the committee's official actions in bringing the games to Atlanta.

process for the Olympic Games raise serious questions, questions that cannot be answered in an environment where official records are secreted and the public nature of the quest for the Games is denied," Walter wrote.

Barnes, who helped craft Georgia's open records law, said he would release the documents if they were in state custody, but he would ask state Attorney General Thurbert Baker for a legal ruling. "The intent of the law was clear," Barnes said, offering his own preemptive opinion. "If there is a private group that performs public functions, then that private group is subject to the Open Records-Open Meetings Act."

Lawyers for both sides met in the attorney general's office. Payne's team agreed that the Open Records Act extended to private entities that are delegated governmental responsibilities. However, the bid team was not subject to the act, Bankoff argued, because it was not acting "in the name of or on behalf of" the city or state in its Olympic bid campaign.

The newspaper lawyers suggested that was a preposterous claim. Payne had pledged the use of city and state facilities, government services and construction of a state-financed Olympic Village at a public university in his bid for the 1996 Games. Then-Mayor Andrew Young was chairman of the bid foundation and instrumental in winning the votes of dozens of IOC members. They solicited and received \$1 million from the city, the county, and a state university to help defray the cost of their bid.

Bottom line: The Olympic Charter made it clear that the Games are awarded to a city and the National Olympic Committee of the country in which the city is situated. Not to a private citizen.

An all-out open records tug-of-war was on.

### Reforms demanded

While the *Journal-Constitution* lawyers negotiated with Payne's lawyers – with the state attorney general as intermediary – my reporting continued. One story detailed how Payne had "sold" his personal collection of Olympic memorabilia for \$1.5 million to his own foundation after the Games. Another illustrated how he profited on real estate deals after the equestrian venue was moved to an out-of-the-way locale where he owned several hundred acres of undeveloped land.

Now the public began to wonder if the records would show more ethical lapses. They, too, began calling for an end to the secrecy. In response, Payne said he long planned to create an Olympic archive at the Atlanta History Center. Though the records had yet to be archived, the cataloging process now would begin in earnest. His lawyers, however, would remove "sensitive documents" and "confidential information" provided by individuals with the "understanding and expectation that their privacy and confidentiality will be respected."

Three months after the incriminating memo was first published, the state attorney general

issued a scathing five-page indictment. The records were covered by the Open Records Act, Baker wrote in a May 1999 letter to the foundation, "based in part on the overwhelming public nature of the 1996 Olympics, the inextricable link between private and public interests and the government entities in the pursuit and ultimate selection of Atlanta as the host city ..."

Payne and his lawyers filed suit seeking a declaratory judgment that the foundation was not subject to open records claims. The *Journal-Constitution*, its sister WSB-TV and Attorney General Baker filed a counterclaim requesting the documents.

The *Journal-Constitution's* reporting got the attention of congressional lawmakers. The day after the fight went to court, a U.S. House Commerce subcommittee launched an inquiry into Atlanta's Olympic bid effort and sent federal investigators to review the records and threaten a subpoena if Payne didn't turn them all over.

With that threat looming and public sentiment turning frosty, Payne announced that all the Olympic records – except eight boxes of "embarrassing" personal materials – would be released immediately to the public.

A quick scan of just a few boxes revealed dozens of expensive gifts of clothing, jewelry and art objects – plus offers of scholarships, jobs, Disney World vacations and 50 used transit buses to one IOC member's hometown of Lima, Peru.

Former U.S. Attorney General Griffin Bell, a prominent member of the King & Spalding law firm and respected on Capitol Hill, wrote a comprehensive report detailing lavish spending on IOC members. But he cast the Atlanta Olympic bid team as innocents in an adulterated courtship that "encouraged a practice of lobbying IOC members in which excess was inherent."

Payne and Young were called to the Hill to testify about the "culture of corruption" in the Olympic bidding process. Under pressure from Congress, the IOC undertook extensive reforms.

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*Melissa Turner has been a reporter at the Atlanta Journal-Constitution since 1987, covering the Atlanta Olympics organization full time for nearly a decade. Her series on the Olympic bribery scandal was awarded the IRE Awards' 2001 Freedom of Information medal. She is currently a business reporter covering urban development.*



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Pete Wright | Freelance



Becky Wright holds her grandchild after a second bone marrow transplant in Seattle.

# UNINFORMED CONSENT

Risky experiments, conflicts of interest hidden by top cancer center

BY DUFF WILSON  
OF THE SEATTLE TIMES

**D**r. John Pesando is to clinical research in America what Jeffrey Wigand was to Big Tobacco and the nor'easter of '91 was to the *Andrea Gale*: a nearly perfect whistleblower.

Pesando was a *magna cum laude* from Harvard, an M.D. and Ph.D from the Einstein School of Medicine, and an insider where doctors get more National Cancer Institute funding than any other place – Seattle's Fred Hutchinson Cancer Research Center.

Yet when Pesando started complaining about unnecessary deaths and financial conflicts of interest in unethical human experiments, almost nobody listened.

He wrote the NCI, which gave "The Hutch" hundreds of millions of dollars for clinical research. He wrote medical deans, cabinet secretaries, members of Congress. He wrote federal and state agencies, which opened investigations then closed them half-done. He wrote *The New*

*York Times*, five times. Then he wrote Deborah Nelson at *The Seattle Times*.

Here's what we learned from writing and reporting this story:

## Lesson No. 1: Read your mail. Closely.

Pesando's increasingly angry letters were documented with inside documents, minutes, scientific journal articles, research protocols and reports on business holdings.

Sure, he had an ax to grind. He'd been let go by The Hutch. So what? His information was solid, his access, unique, and his insight, invaluable.

## Lesson No. 2: Ax-grinders, welcome.

Four reporters worked the story over two years. Nelson left midway to join *The Washington Post*; Michelle Matassa-Flores took an editing job; David Heath and I finished up. David Boardman edited.

The Hutch was the largest bone marrow transplant center in the world, and a crown jewel in Seattle. Its leader had won the Nobel Prize for medicine. Obviously we needed to be careful with our facts and fairness. Luckily, we have bosses who believe in investigative reporting and give the time it takes.

## Lesson No. 3: Cultivate bosses like these.

In the end, we documented two failed clinical trials. One was from Pesando's letter, while another one came from a different source, in which more than 20 patients died prematurely from highly experimental treatment without being informed of the true risks and alternatives. The experiments between 1983 and 1998 tested drugs in which The Hutch and its doctors had private financial interests. They violated federal laws on protection of human research subjects, informed consent and drug monitoring.

Patients in the two trials at question were ill with cancers that, left untreated, would almost certainly have killed them. But many stood a good chance of survival or at least prolonged life with traditional care.

In one case, a doctor made \$20 million from stock he'd received in a company that owned rights to three drugs tested with fatal results on blood-cancer patients. In another, a breast cancer patient was promised a rescue drug that the hospital didn't even have, and she suffered a horrific death.

Our five-part series was titled "Uninformed Consent: What patients at 'The Hutch' weren't told about the experiment in which they died."

The story had been covered up for more than a decade. That made it doubly important. We documented the deaths, then the coverup.

## Lesson No. 4: Old news can still be big news.

The pharmaceutical industry is a target-rich environment for investigative reporting. It sells \$100 billion in drugs a year. It spends \$100 million on lobbying and campaign contributions. It enrolls roughly 10 million Americans in clinical trials. And it suffers uncounted deaths in those trials.

Yet we know less about deaths in human experiments than we do among guinea pigs, dogs and monkeys. Medically disposed lab animals are counted; people are not.

Clinical researchers are supposed to file "adverse event" reports when things go wrong in human experiments. But the Food and Drug



Administration keeps them private as trade secrets. A federal committee on genetic research and the Office for Human Research Protections have failed to collect the reports, as required, until press attention the past two years.

The Hutch, like other private nonprofit corporations, enjoys immunity from open-records and open-meetings laws, though it gets two-thirds of its funding, \$142 million last year, from the federal government.

The failed blood-cancer experiment described by Pesando used drugs produced at The Hutch, licensed to a company across town, and never crossing state lines. So they enjoyed an in-state exemption from FDA review.

We faced hostility by Hutchinson doctors, lawyers and PR people as soon as they learned we weren't doing another of the 1,400 positive articles they'd grown accustomed to enjoying over the years. They tried to funnel every call to a single PR person and asked us to tell her of every interview in advance. They refused to tell us what stock anybody owned or what clinical trials they were doing. They claimed this information could

reveal competitive secrets. The PR person and chief counsel told us they simply would not help us on a "negative" story.

### Lesson No. 5: Use obstacles for motivation.

Before they got their guard up, we interviewed two of the key researchers by calling their direct lines listed in a leaked phonebook. That started a process in which they submitted to several long interviews.

The principal investigator, Dr. Paul Martin, while still in a cooperative mood, gave us his consulting agreement with the company that owned rights to three of the drugs being tested on cancer patients, as well as a complete set of consent forms as they changed over time. Martin also revealed that 82 people had enrolled in the blood-cancer experiment.

More reluctantly, he revealed later that only two of them were alive. Still later, the center says there may not even be two.

We could not have gotten that information from any other source. Researchers never wrote a

final report on the experiment, and I could never find any decent information in hundreds of pages of NCI grant files.

### Lesson No. 6: Approach victims early.

We found victims by various means including reverse-engineering off dates that people died according to two medical journal articles that covered parts of the experiment. We gathered death certificates and marriage certificates to find relatives in an elaborate skip-tracing process. Many of these people had died in the early 1980s. We used the Social Security Death Index, Vitalchek, Merlin Information Finder, Lexis-Nexis, and credit report headers (which we'll soon lose to the privacy movement).

Victims of graft failure included a department chairman at the City University of New York; an attorney for the city of New York; a Navy cardiologist; a computer programmer from Los Gatos, Calif.; and homemakers from Alabama, Florida, Indiana and India.

In all we identified 26 of the 82 people and

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spoke to about a dozen of the families before publishing. Some of these were difficult conversations. They hadn't known about problems in the experiment in which they lost a loved one. I was a reporter calling out of the blue.

I found one good door-opener was to tell people how I found them, the SSDI, credit headers, the whole nine yards. By then, the person at the other end of the line wasn't so wary of a reporter calling because I had been upfront about skip-tracing, and he or she was more open to what was coming next.

I explained carefully what we had come to know about the circumstances of their loved one's death. I followed up with a letter, attaching journal articles, meeting minutes and other proof, then phoned again. Typically, the families responded with anger, disbelief, sorrow, and ultimately in every case I handled, gratitude for our work. They simply had not known all the facts.

Then I asked the next-of-kin to sign an authorization for disclosure of health information. That we used with the hospital to obtain a copy of the medical records, consent forms, doctor conference notes, and every detail of the treatment.

Those stories were the heart of the series.

### Lesson No. 7: Use records to find people, and vice versa.

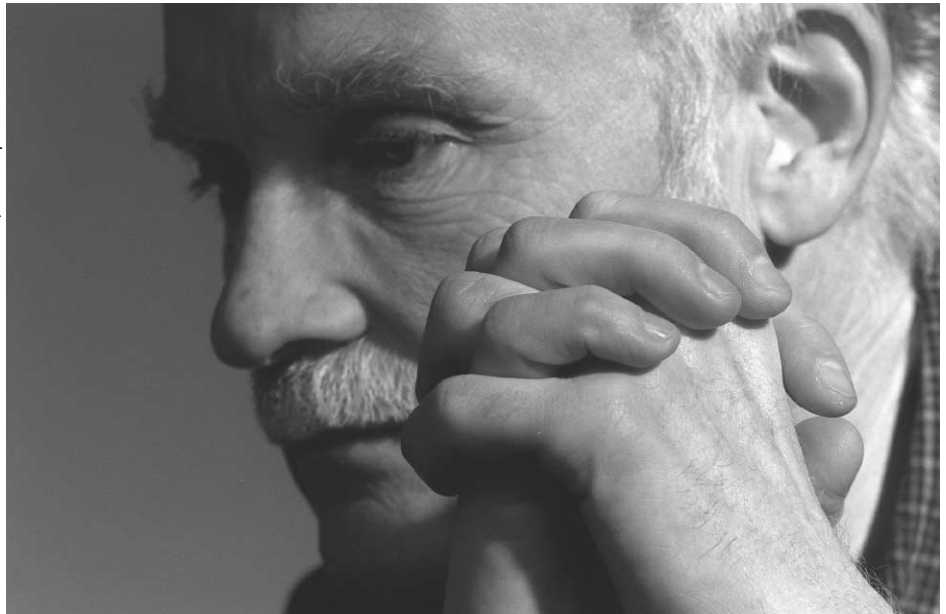
The consent forms initially said there was no evidence people would suffer graft failure caused by the experimental drugs. This was disingenuous; there were concerns from the start about graft failure, though not yet evidence. The form later said people "may" suffer graft failure; by then, many had. Only 11 years later did the patient-consent form admit frankly to "a high chance of infections, bleeding and death."

Once we knew for sure what the patients had been told, the key question was "What did Hutchinson Center doctors know and when did they know it?"

Our reporting found more than even Pesando had suspected, including two earlier ethics reviews before his own objections were raised as a member of the Hutchinson Center Institutional Review Board. He hadn't been told about the predecessors, another violation of federal law.

We built long chronologies to link consent forms, graft failures, deaths, and financial interests. This was one of the most complex stories any of us had ever handled. At root was the notion that people need to be fully informed of risks and alternatives to experimental medicine. The story had three legs: (1) science and medicine; (2)

Harley Soltes | The Seattle Times



"Real people lost their lives, and there was no way to stop it," said Dr. John Pesando, who challenged Protocol 126 from inside and out of the research center.

business and financial conflicts-of-interest; and (3) laws and rules on patient informed consent.

As non-doctors, our understanding of the medical issues grew from journal articles, books and bibliographies. Medline was our best source, but just a start. We read the articles over and over and over again, medical dictionaries at our elbows.

Business reports came from the SEC, of course, and private stock prospectuses leaked by venture capitalists. By calling around, you can get inside this talky little circle. Medical businesses often boast of private connections to research scientists. Patent databases on the Web showed which inventions the scientists hold. We detailed their holdings in a company that owned the rights to drugs in their federally funded experiments.

Going further to establish the entrepreneurial atmosphere, David Heath built huge databases with researchers' names plucked from the Hutch's biennial scientific reports, matched with a slew of financial documents from the SEC, an insider-trading database and the U.S. patents full-text database. For more on the CAR work, see the July-August 2001 *Uplink*.

We focused on an "A list" of 44 Hutch scientists who mixed research with business, then wrote six 40-inch investigative profiles, chipped down, painfully, to hard-edged 10-inch mini-profiles. Weeks of work on scientists failing to report patent and other private interests to medical journal editors ended up as a single, rock-solid paragraph in a story on the culture of The Hutch condoning secret financial conflicts of interest.

### Lesson No. 8: No such thing as over-reporting.

The third leg, legal standards that apply to human experiments, arose from the Nuremberg Code of 1949, the Belmont Report of 1979, and, less clearly, the 1991 federal regulations on protection of human subjects, 45 CFR 46. We found dozens of articles by legal and ethics experts through Medline, bibliographies and interviews.

It was clear from this that the researchers at The Hutch should have gone back to dogs, mice or the lab after people started dying in their risky experiments. Instead the researchers started enrolling sicker cancer patients, giving the standard treatment to those with a 50 percent or better chance of a cure, and the risky treatment to the rest. After all, one person explained, they were "circling the drain." They were going to die anyway. The attitude spoke volumes.

We worked days on graphic charts showing what patients were told, and what they should have been told. We worked weeks and weeks on the writing. In the end, we published 25,000 words in the five-day series, then another 5,000 words in a Q&A.

### Lesson No. 9: Even 30,000 words can read short.

We built a huge Web site, too. Our new-media people met with us old-media types throughout the latter half of the investigation.

Ultimately we posted 44 source documents in PDF format, the largest of which was the

Hutch's 24-page letter trying to defend itself (7 megabytes), as well as audio files and a reader response form, on the Web.

So readers of the newspaper saw a sidebar saying, "Today on seattletimes.com you'll find: the first patient consent form; penny stock deals; conflict of interest policy..." then they could go there, click and see for themselves.

The Uninformed Consent Web site ([http://seattletimes.nwsource.com/uninformed\\_consent/](http://seattletimes.nwsource.com/uninformed_consent/)) got 40,000 to 50,000 page views a day during the first week.

So readers saw what we saw, unadorned and unabbreviated. Doctors, among others, said they loved it. The Web site definitely helped make our case.

### Lesson No. 10: Put proof on the Web.

The Hutch also set up a sprawling Web site. Their comment after the first day of our series, though, undercut their whole case. They claimed they'd been exonerated by a thorough federal investigation. We ran their entire statement unedited.

Readers told us they read every word as the series unfolded. We were inundated with more than a thousand e-mails and phone calls, overwhelmingly positive. Within weeks, lawyers filed two lawsuits against The Hutch, including a class-action suit on behalf of the 82 patients' families.

The Hutch later called a press conference to say the stories were false, but provided no specific refutations. We reported their rebuttal and let readers make up their own minds.

At the same time we've been careful to say the Hutch does a lot of good for the community, for research, and for many cancer patients. The center is currently reviewing all of its policies on financial conflicts of interest and patient informed consent. They are conducting the review behind closed doors.

Recently, a blue-ribbon panel at the center proposed a flat-out ban on all financial conflicts of interest by clinical staff and a requirement to fully inform prospective patients about institutional holdings, such as biotech company sponsorship of drug trials. These steps would, if adopted, make it the strictest in the nation versus conflicts of interest.

*Duff Wilson is an investigative reporter at The Seattle Times. He is completing his first book, "Fateful Harvest: The True Story of a Small Town, a Global Industry and a Toxic Secret." It's based on his 1997 series about toxic waste recycled to fertilizer, which was a Pulitzer finalist.*

## WEB SITES

- **A New York group called Alliance for Human Research Protection sends daily (sometimes less often) e-mails noting top national news on clinical trials to interested reporters and others.** Contact Vera Sharav, [veracare@rcn.com](mailto:veracare@rcn.com)
- **Several organizations track clinical trials:** [www.centerwatch.com/](http://www.centerwatch.com/), [www.clinicaltrials.gov](http://www.clinicaltrials.gov) and PDQ, the NCI's comprehensive cancer trials database, <http://cancernet.nci.nih.gov/trialsrch.shtml>
- **Published studies from MEDLINE:** [www.ncbi.nlm.nih.gov/entrez/query.fcgi](http://www.ncbi.nlm.nih.gov/entrez/query.fcgi)
- **Office of Human Research Protections:** <http://ohrp.osophs.dhhs.gov/>
- **FDA for regulations, new drug reviews and approvals, inspections database, database of domestic and foreign doctors conducting clinical trials:** [www.fda.gov](http://www.fda.gov)
- **NIH for regulations, research grant information:** [www.nih.gov](http://www.nih.gov)
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- **IRS Form 990s:** [www.guidestar.org/](http://www.guidestar.org/)
- **The Center for Science in the Public Interest has a new database linking scientists and nonprofit research centers to industry interests:** [www.cspinet.org/integrity/database.html](http://www.cspinet.org/integrity/database.html)
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**P**ublic officials often are the target of innuendos and rumors. From charges of illegal campaign donations to whispers of appointments traded for favors, journalists have just about heard it all. Finding documentation and investigating unscrupulous behavior or unlawful actions by those in the public arena, however, is what turns gossip into solid stories.

# PUBLIC OFFICIALS PRIVATE DECEIT



## HIDDEN AGENDAS

**WHEN STATE LEGISLATORS DO PUBLIC WORK FOR PERSONAL GAIN**

BY MELEAH RUSH  
of the Center for Public Integrity


**T**he story is as old as government itself: people in power taking advantage of their positions to further their own agenda. It is a story that appeals to the “watchdog” in every reporter. It is a story, transpiring time and again in our nation’s

often under-examined state legislatures, that the Center for Public Integrity began telling six years ago.

While gathering campaign finance information in Indiana and Illinois in 1995 and 1997, Center researchers ran across outside interest disclosure forms – little-discussed pieces of paper lawmakers must fill out to inform the public about their activities outside the statehouse. Using Illinois as a case study, the Center found that almost anything goes under that state’s system of flagging potential conflicts of interest.

After examining the “Statements of Economic Interest” of all 178 members of Illinois’ legislature, interviewing scores of lawmakers and reviewing thousands of bills and amendments, the Center found dozens of Illinois lawmakers

CONTINUED ON PAGE 24



## ON THE CLOCK

**COUNTY’S TOP COP MAKES PRIVATE USE OF DEPUTIES**

BY DALE CARDWELL  
of WSB-TV, Atlanta

**T**he murder of Derwin Brown, sheriff-elect in Georgia’s DeKalb County on Dec. 15, 2000, didn’t immediately attract national attention. After all, the South has a reputation for losing rural sheriffs to revenge-seeking

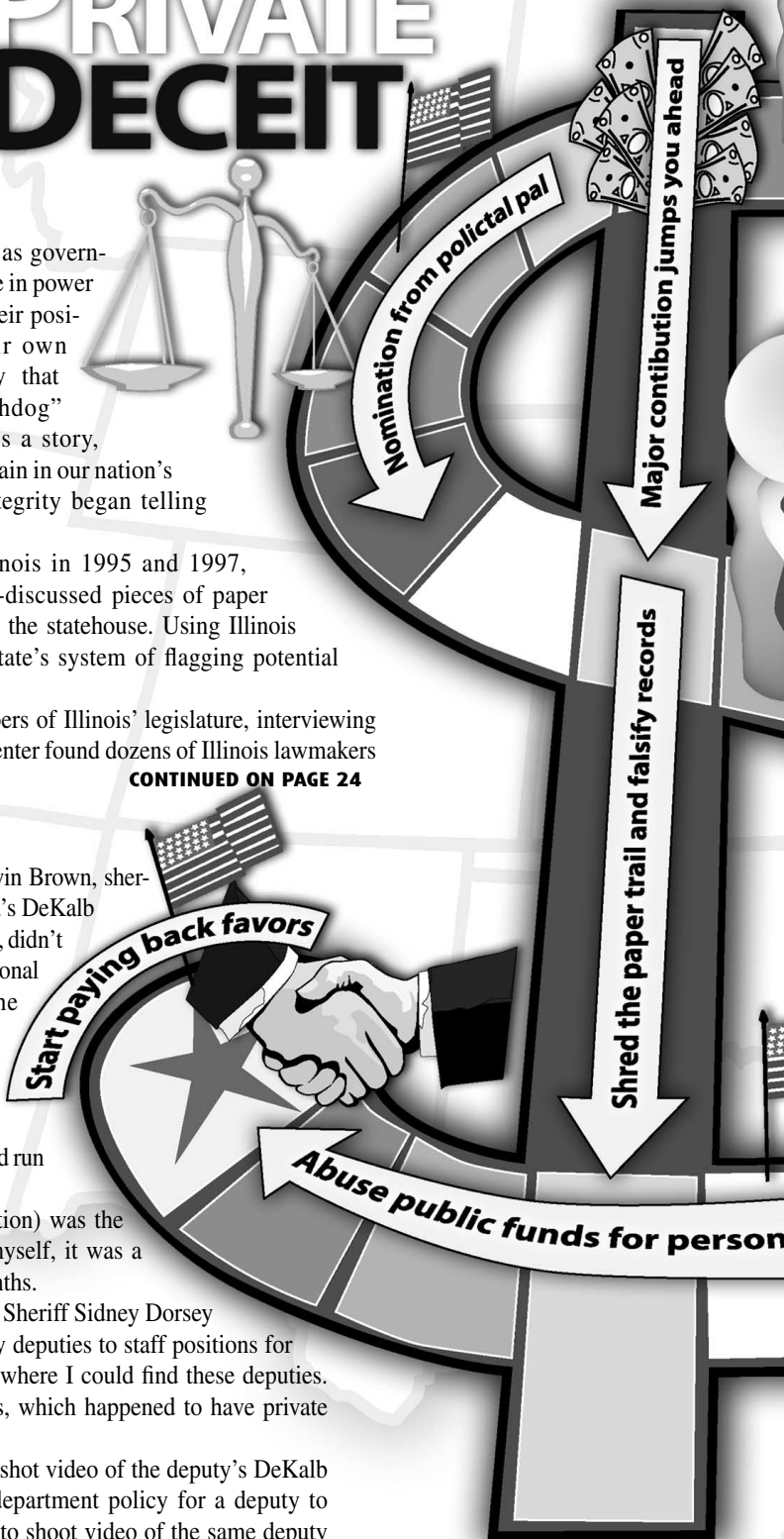
criminals. Perspectives changed, however, when national news desks realized that Brown was the sheriff-elect of metro Atlanta’s second-largest county, and had run on a promise to “clean up” alleged corruption in the state’s most populated jail.

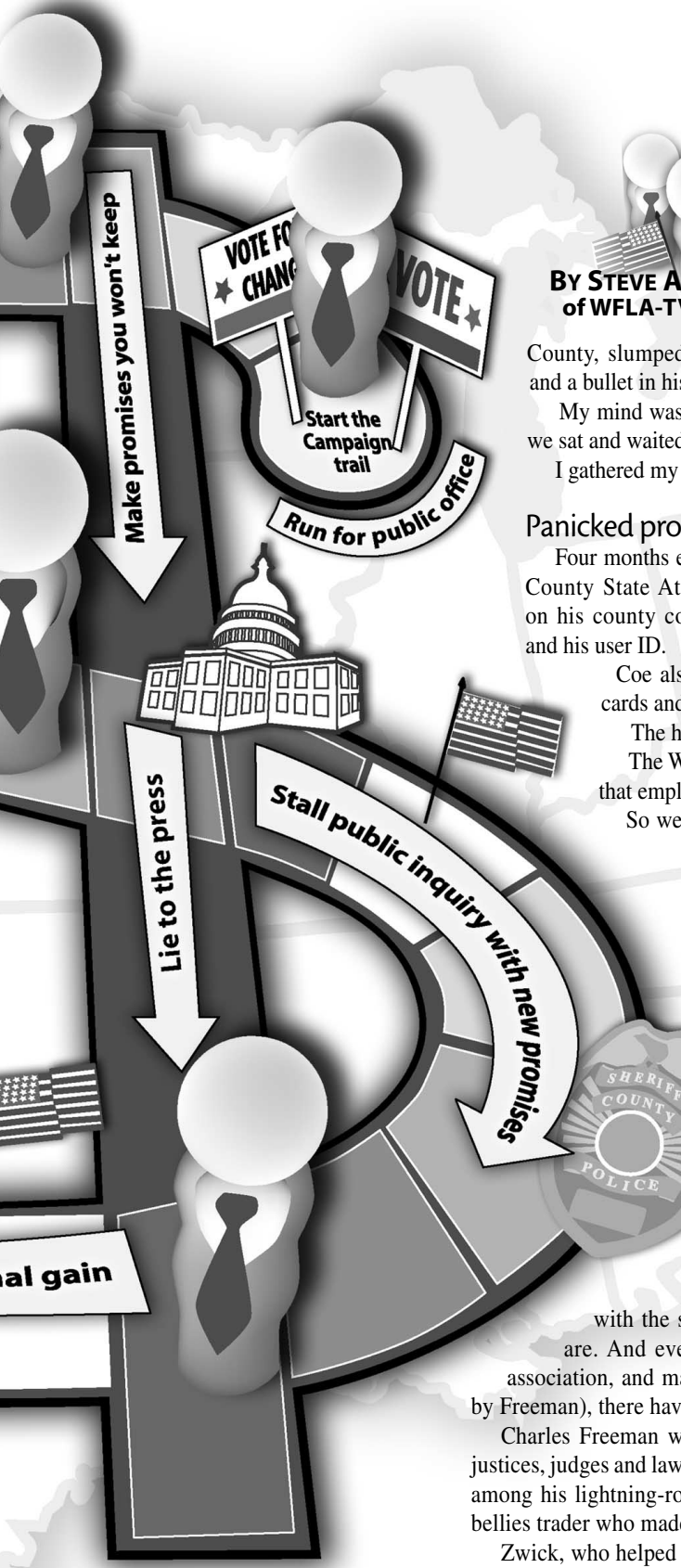
For many journalists, Brown’s murder (authorities called it an assassination) was the starting point for their inquiries. But for photojournalist Jim Bridges and myself, it was a shockingly wicked twist to an investigation we’d been conducting for six months.

It all started with a tip from a stranger. The source told me DeKalb County Sheriff Sidney Dorsey (DeKalb’s first African-American sheriff) was using his department’s on-duty deputies to staff positions for his private security company, S-I-D Inc. The source also told me when and where I could find these deputies. True to the source’s word, I found deputies working at metro Atlanta banks, which happened to have private security contracts with Sheriff Dorsey’s private security company.

The immediate challenge was to get it on tape. My partner, Jim Bridges, shot video of the deputy’s DeKalb County squad car, parked behind a Fulton County bank. (It was against department policy for a deputy to drive a county car while off duty.) On our next visit, I used a “glasses cam” to shoot video of the same deputy through the glass doors of the bank, and we used a cassette recorder to capture his sound when I engaged him

CONTINUED ON PAGE 27





## WEB GAMBLING PUBLIC PROSECUTOR LIVED ON BORROWED CASH AND TIME

BY STEVE ANDREWS of WFLA-TV, Tampa

**M**y partner, Gordon Dempsey, and I stood in silent shock. Sure we'd seen dead bodies before. But this was different. This was the man at the center of a series of our investigative reports. This was the top prosecutor in Hillsborough

County, slumped beneath a Tampa expressway. There was a gun in his lap, blood on his shirt and a bullet in his head.

My mind was racing. What to do? Who to call? Once we phoned 911 and the television station, we sat and waited for the inevitable debriefings.

I gathered my thoughts and recalled how it all began.

### Panicked prosecutor

Four months earlier in March 2000, a contact in the state attorney's office told me Hillsborough County State Attorney Harry Lee Coe routinely locked his office door, then played the dogs on his county computer all day long. We learned about the Web site he visited, his password and his user ID.

Coe also was said to have bounced checks at local dog tracks, maxed out several credit cards and dodged bill collectors daily.

The hunt was on.

The Web site checked out, but we stopped dead in our tracks when our lawyers advised us that employing the password and user ID was illegal.

So we asked the state attorney's office about how they policed the use of the Internet by

**CONTINUED ON PAGE 29**

## SUPREME DEALS JUDGES' ABUSE OF POWER EXPOSED

BY ABDON M. PALLASCH AND CHUCK NEUBAUER of the Chicago Sun-Times

**W**hen Illinois Supreme Court Justice Charles Freeman made appointments to the bench, the questions by other judges and lawyers would inevitably follow.

"Where does he get these people?" they would privately wonder.

Freeman's actions were not unlawful of course. Most of the county judges in Chicago get their start with an appointment to a temporary judgeship by one of three state Supreme Court justices from Cook County.

Still, deservedly or not, rumor always has been that the justices consult with the same cigar-chomping Democratic ward bosses who helped them get where they are. And even though appointees had to be competent enough to pass review by the bar association, and many highly respected jurists came out of that process (including some appointed by Freeman), there have been questions.

Charles Freeman was elected the first African-American supreme court justice in 1990, and other justices, judges and lawyers have lacked conviction about the competence of some of his appointees. Chief among his lightning-rod appointments was one of his first, Mort Zwick, the glad-handing former pork bellies trader who made no secret of his ambition to join Freeman on the Supreme Court.

Zwick, who helped raise money for Freeman's Supreme Court campaign, ran for the court himself in 2000. Zwick spent more money than any other candidate and came in dead last out of four, denounced by

**CONTINUED ON PAGE 30**



# HIDDEN AGENDAS

## WHEN STATE LEGISLATORS DO PUBLIC WORK FOR PERSONAL GAIN

CONTINUED FROM PAGE 22

routinely proposed and voted on legislative measures that could boost their own incomes. If this practice was rampant in Illinois, what was happening in other states?

Research showed that the conflict-of-interest issue had been mainly reported on a scandal-by-scandal basis, the topic only cropping up once it was too obvious to be missed. It seemed shrinking statehouse reporting teams were so overwhelmed with covering the thousands of bills introduced and enacted in each year's sessions, they rarely had a chance to step back and study all of the possible influences upon lawmakers. By 1998, the campaign finance angle had become habit for any aggressive legislative reporter, but the outside interest coverage remained largely neglected. We sought to improve that condition with the Center's "50States Project" and make reporting on outside interests the new reflex.

### Unique legislatures

The outside interest disclosure forms obtained from Indiana and Illinois were four and two pages, respectively, of straightforward questions providing a wealth of information about each legislator. Collecting similar forms in every state and inputting the information into a database for fingertip access would "be so easy" – or so we thought.

Each of the nation's state legislatures is unique and so is each state's method of keeping track of its lawmakers. That became apparent when the paperwork started rolling in. From Pennsylvania's concise one-page form to Texas' 20-page form, the filings were endlessly varied in format. From Louisiana's two quick questions to New York's 16 wordy queries, the data began piling up precariously.

To understand the facts, we had to under-

stand the filings. A detailed analysis of outside-interest disclosure laws ensued. After combing through each state's form, we decided on some baseline parameters:

- 1) Availability. Were annual reports mandated?
- 2) Access. Was the cost of copies high?
- 3) Possible penalties. Did the law prescribe fines for violating the laws?
- 4) Disclosure requirements. Were the pertinent categories of information included?

The categories of information we termed "basic," or minimal. The disclosure requirements included legislators' employment relationships, officer/director positions, investments, real-property holdings, and client and

kind. We found 14 states received grades of satisfactory to excellent because legislators were required to disclose a broad array of information about their incomes, assets, clients, family interests and ownership of real property.

This one-of-a-kind ranking was the centerpiece of the "Hidden Agendas: How State Legislators Keep Conflicts of Interest Under Wraps" report. To inform reporters in the far reaches of state capitals nationwide, we released the study via our Web site, [www.50statesonline.org](http://www.50statesonline.org). It was the center's first-ever electronic release. The third-party voice we provided appealed to journalists across the county. Newspapers in at least 30 states reported on the rankings; editorials discussing the need for stronger disclosure and an interested public appeared in at least 13 newspapers; radio and television news programs in several states also featured the disclosure rankings.

We continue to find the rankings cited in conflict-of-interest stories and are scheduled to update the findings in 2002. This report set the stage for our next study, "Our Private Legislatures – Public Service, Personal Gain," which was made possible with funding from Carnegie Corporation of New York, Deer Creek Foundation, Ford Foundation, Joyce Foundation, John S. and James L. Knight Foundation, Alida R. Messinger and Open Society Institute. It discerned where loopholes existed in state financial disclosure laws and provided a comparison of state laws to the public.

**Netscape: 50States Online: In your States**

Location: <http://www.50statesonline.org/cgi-bin/50states/Findings.asp?Display=6>

October 9, 2001

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IN THIS SECTION: NATIONWIDE FINDINGS | LOOKING OUT FOR #1 THE BIG PICTURE | HIDDEN AGENDAS: NATIONWIDE FINDINGS | NATIONWIDE DISCLOSURE RANKINGS | NATIONWIDE DISCLOSURE LOOPHOLES

**Nationwide Financial Disclosure Loopholes**

In February 1999, the Center released "Hidden Agendas: An Analysis of Conflicts of Interest in State Legislatures." Center researchers methodically evaluated financial-disclosure laws that apply to members of the legislatures in all 50 states, and ranked the states on basic disclosure components and access to public records. The report showed that nearly half of the states' disclosure systems fail to provide the public with basic information on state lawmakers' private interests.

Here is a brief summary of the loopholes in financial disclosure reporting found in every state from that report.

STATE	SCORE	RANK	LOOPHOLES
Alabama	96	2	lawmakers do not have to disclose the names of clients
Alaska	95	3	lawmakers do not have to disclose dependents' clients lawmakers do not have to disclose a value range of investments for some companies in which they have holdings
Arizona	91	5	lawmakers do not have to disclose a value range of real property holdings lawmakers do not have to disclose a value range of employment earnings
Arkansas	75	18	lawmakers do not have to disclose the names of clients lawmakers do not have to disclose a value range of earnings from clients lawmakers do not have to disclose real property holdings for self or immediate family

The 50 States Project can be reached through [www.publicintegrity.org](http://www.publicintegrity.org).

family name information. We graded each state according to these criteria.

The Center's investigation uncovered widespread deficiencies in the very laws that are designed to maintain the public's trust in the democratic foundations of law-making institutions. We found nearly half the states received failing grades because lawmakers could hide significant categories of information about their private financial interests from the public, including three states – Idaho, Michigan and Vermont – where lawmakers did not have to file outside-interest disclosure reports of any

### Paper piles

Forging ahead with our plan to enter the outside interest information for each of the approximately 7,400 state lawmakers into one succinct database, we contacted each filing agency – usually the state ethics commission or the secretary of state and sometimes each chamber in the statehouse – to procure the paper records. All told, it took about a year to get a complete set of documents, about 100,000 sheets of paper. The copy fees amounted to about \$5,500, ranging from more than \$600 for Alabama's records to \$18 for Montana's. In 1999, Hawaii was the only state with disclosure forms available online. Currently, Arkansas,

Georgia, Minnesota, Ohio, and Indiana's House have the filings available on the Web. For the May 2000 release, we scanned all of the paper records and made them available in downloadable format on our Web site; we will continue to collect, scan and post the filings yearly.

For about eight months in 1999 and 2000, two center researchers entered the data as it appeared on each legislator's filing. Since this was the first attempt of its kind, we did not know exactly what we were getting or what information could be left out of the database, so we had to input everything. We used some voice-activated data entry help through software called Dragon Naturally Speaking, which was of some assistance, but mainly we logged hundreds of thousands of keystrokes.

To augment the veracity of the data, we hired researchers to contact each legislator in the country by mail, phone, fax and e-mail. Our response rate was not high, but the attempts were important to show we did our best to confirm information and fill holes when necessary. Though the information is, of course, public record, many legislators told us their private dealings were none of our business. They also found mistakes in the information supplied, though each form requires a legislator's confirmation signature. One legislator's mother called us after hearing a message we left for her son, asking why we were bothering him. Some were happy to chat with researchers and expressed frustration with the public's distrust of government and fellow politicians' reluctance to tighten ethics laws.

### Systemic dilemma

In May 2001, "Our Private Legislatures" presented the data we gathered nationwide, as well as state by state, as a snapshot trying to gauge each state legislature's potential for conflicts of interest. We settled on the following three types of information to survey and found:

- More than one in five state legislators profiled sat on a legislative committee that regulated their professional or business interest.
- At least 18 percent had financial ties to businesses or organizations that lobby state government.
- And, nearly one in four received income from a government agency other than the state legislature, in many cases working for agencies the legislature funds or regulates.

The number crunching included information

## From the Field

**Most reporters do not have the resources or the need to replicate a study similar to the Center for Public Integrity's "50States Project." Here are some tips from several journalists who have discovered the wonders of outside interest disclosure reports.**

**Lucy Morgan, Tallahassee bureau chief for the *St. Petersburg Times*, says she keeps outside-interest disclosure forms on file in her newsroom.**

"I began filing disclosure forms in the office in the mid-1980s and have kept a continuous file since – one for each legislator, each cabinet member, governor, supreme court justice, etc. We refer to them often and have added other information to the legislative files each year, like a complete search of property they own, licenses they have, etc. We have several file drawers dedicated to these disclosure forms, but no computerized database in part because the state has not put the basic files up on computer yet. The files come in handy because they are available to us at all times, and we seem to have a chronic need for them after 6 p.m., when all state offices are closed."

**Ken Dilanian, *Philadelphia Inquirer* staff writer, says he and two other writers based a five-part series on outside-interest disclosure forms ([www.philly.com/specials/2000/legislators/default.asp](http://www.philly.com/specials/2000/legislators/default.asp)).**

"We decided to do the series because I was reporting on the Senate majority leader at the time and noticed he had all of this outside income that intersected with his work. His response to that story was that in Pennsylvania this was all perfectly legal and everyone else does it. So, we decided to look at the whole Legislature. To make it manageable, we put everyone into a database to do a macro look, but we concentrated on the 12 or so most fruitful – those with the largest income that intersected. For example, the transportation committee chair who owned a road-building empire. We looked at the forms and things jumped out. We split up five or six legislators for each reporter to cover. We also looked at the issue from the industry perspective – lawyers and farmers – because we found lots of small examples of similar situations. It took about eight months to get the series done because we had our other reporting responsibilities. Lots of email came in response to the series and letters to the editor. Every paper in the state editorialized on the stories. Just as we look at campaign contributions to check out possible influences on a lawmaker action, we should look at personal financial disclosures, which can offer information that is more profound and more direct."

**Kathy Hennessy, Gannett state bureau Trenton reporter, says she is creating an internal-use database from outside interest disclosure forms.**

"The New Jersey legislative race is this fall and I thought it would be interesting to go back over the last sessions to see what legislators are doing. The database is focused on what they do for a living and what committees they sit on. I am taking that information and working with it the old-fashioned way by cross-tabbing it with the state's legislation Web site. For example, I found one legislator who was a lawyer and sponsored lots of banking and insurance legislation. I looked on Martindale Hubbell's Web site and learned that his specialties were banking and insurance. By looking at the legislation, I found some very direct and obvious ties. This is my first database, which I was inspired to do by what I learned at the IRE National Conference in Chicago. I take an hour here and there to work on it; some days are better than others and I can spend the whole day. I am concentrating on categories of information: employment, committees, spouse's employment, leadership positions. These forms are useful because we are finding out who our legislators are."

## Looking Out For No. 1

By Meleah Rush

**State representative and senators are elected to carry out the will of the public. But all across the country, lawmakers time and again are looking out for their own interests. At the end of a two-year investigation of conflicts of interest in state legislatures, the Center for Public Integrity was able to identify the following recurring themes. Be on the lookout for similar stories in your state:**

### 1. Changing the law is good for business.

In Nebraska, two lawmakers – both owners of stores that sell lottery tickets – push for legislation that would increase their commissions from lottery ticket sales while reducing funding for gambling addiction services as well as state education and environment programs.

### 2. Family ties.

In Connecticut, nine lawmakers whose relatives work for the state's scandal-ridden county sheriff departments impede a constitutional amendment that would abolish the sheriffs system, which has been characterized as little more than "a jobs program for politicians."

### 3. Profiting from nonprofits.

In Kansas, a lawmaker fails to report in his annual disclosure that his wife is the executive director of a nonprofit organization called YouthFriends. The Kansas Youth Authority, a state panel chaired by the lawmaker, awarded YouthFriends a \$250,000 grant.

### 4. Job creation.

In New Jersey, a lawmaker uses his position as chairman of the Senate commerce committee to push for, and win passage of, legislation called the New Jersey Trade Development Act. He is rewarded with a seat on the board of directors of an international trade consulting company that was formed to take advantage of the legislation.

### 5. Winning state contracts.

In Vermont, a lawmaker is executive director of a nonprofit mental health care provider that does millions of dollars in business with the state each year. This lawmaker has written legislation creating programs that could potentially benefit his organization by providing it with additional state contracts.

### 6. Consulting – nice work if you can get it.

In Virginia, a lawmaker receives up to \$50,000 in consulting fees from a pharmaceutical maker that had recently opened a multi-million dollar manufacturing plant in his district. As a paid consultant for the company, the lawmaker lobbies his colleagues in the Legislature to appear before state regulators about matters tied to the company and its operations.

### 7. Working for advocacy groups.

In Mississippi, a lawmaker has close ties to one of the most powerful special interests in the country – the Associated General Contractors. In addition to his job at the statehouse, this lawmaker is the Gulf Coast regional director for the association and proposes bills favored by the industry.

### 8. Representing special interest groups.

In Louisiana, a lawmaker frequently champions legislation sought by the city of Kenner, one of the state's fastest growing municipalities. At the same time, this legislator has been employed at a law firm that in 1998 received approximately one-third of its income – \$26,000 – from the city of Kenner.

### 9. Representing clients before state agencies.

In South Carolina, a lawmaker who led efforts to reform the state worker compensation laws has a significant business interest in the process. The legislator works for a law firm that earned more than \$600,000 in fees representing injured people before the South Carolina Workers' Compensation Commission

### 10. Working for lobbying groups.

In Illinois, one lawmaker has been a prime sponsor of "tort reform" legislation that would limit the amount plaintiffs can collect when they sue businesses or physicians. This legislator works at a law firm where one of the clients is the malpractice insurance arm of the Illinois State Medical Society. The state senator was a registered lobbyist during the time period when the debate occurred.

only about those in office during the time period that the forms covered; we looked at those in office in 1998 who filed forms in 1999. Lawmakers elected at the end of 1998 were not included because they may have divested their interests before the beginning of the next legislative session.

A major difficulty with the analysis of the outside interest information of legislators is the difficulty in drawing a direct line from "appearance of a conflict" to "actual conflict of interest" by merely looking at the data. So, to put the data we gathered into context, the center hired four writers with state- and local-level reporting expertise to demonstrate that "inside-the-beltway" politicking is not exclusive to Washington, D.C. The writers for the project spent a year breathing life into the numbers by compiling conflict-of-interest stories from every state. They chronicled accounts illustrating precisely how lawmakers everywhere put private interests before the public good.

Again, we enlisted the Internet to disseminate this mound of information and again, reporters throughout the country embraced this comprehensive analysis. More than 80 papers in more than 40 states covered the results. Associated Press reporters in half the states put stories on the wire. More than 20 editorials and columns sparked discussion. NBC sent a story out over its syndication system and WNBC in New York issued a special report. Radio shows dug in as well. For a few days in May 2000, the public was saturated with state-level investigative reporting never seen before.

Since that time, center researchers have delved more deeply into the data set. We are featuring new analysis, broken down by industry, in an upcoming book about ethics in state legislatures. Also, we have identified the truly essential categories of information to pull from the outside-interest disclosure forms for an update of the data scheduled for release in 2002. The focus will be on the information most consistently reported across the board – employment income, stock holdings, and personal business interests. Client information also will be tracked whenever possible.

*Meleah Rush is director of State Projects at the Center for Public Integrity in Washington, D.C. She has worked with State Projects since 1997. Continual updates on the work can be found at [www.50statesonline.org](http://www.50statesonline.org). The Center for Public Integrity is a nonprofit, nonpartisan research organization that focuses on ethics in government.*





## ON THE CLOCK COUNTY'S TOP COP MAKES PRIVATE USE OF DEPUTIES

CONTINUED FROM PAGE 22

in conversation. The bank had just closed, and he explained to me that he couldn't let me in. I used the opportunity to ask him who he worked for, if he was "on duty" and what he was doing there. His reluctance to answer the questions buoyed my suspicions that my source's information was true, but it still had to be proven.

### Always on the clock

I used Georgia's Open Records law to gain access to six months worth of several deputies' time sheets, including the deputy we'd captured on camera. Inspection of the records showed that the deputy was indeed "on the clock," being paid by the taxpayers, while he was in reality pulling a shift for the sheriff's private

security company.

The sheriff refused our requests for an interview, even after we supplied him with a copy of our evidence. He did however, direct his daughter, who was his public information officer, to fax us a modified time sheet, which she claimed had "corrected" the deputy's on-duty hours that day. She also claimed the correction was made prior to our inquiry. The result made it appear as though the deputy's private work, on taxpayer time, was simply a bookkeeping oversight. Frankly, I thought this was the end of our investigation. It would have been, if not for the bravery of the man at the center.

Deputy Joe Murray, the man we'd captured on tape (which had not yet aired), agreed to tell us the whole story. His only condition was that he wanted to do it in the presence of agents from Georgia's Bureau of Investigation. Murray's candid interview revealed that he had worked private security shifts for the sheriff on numerous occasions, even though he was always on the county time clock. He told us he was often sent to the banks personally by

WSB-TV



The late Sheriff-elect Derwin Brown of Georgia's DeKalb County.



Scene of murder outside Sheriff-elect Brown's home.



Patrick Cuffy, a man with a criminal record, had been deputized, given a take-home squad car, arrest powers and a gun, even though he'd never been trained or certified as a police officer.

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the sheriff, and that the sheriff knew he was on “taxpayer’s time.” What’s more, Murray said Sheriff Dorsey personally directed his second in command to alter Murray’s time sheet, after we inquired about it.

Murray also helped us develop other sources. One, a high-ranking department employee, told us on camera that the sheriff used on-duty deputies for his private purposes daily, and that it was endangering the lives of officers who guarded prisoners at the county’s chronically understaffed jail.

These two interviews, as well as the public record, provided the evidence we needed to broadcast our story. Our enterprise investigation, along with Murray’s insistence to speak to authorities, prompted the DeKalb County district attorney to launch an investigation.

**Giant killer**

Our initial story aired two weeks prior to Georgia’s primary elections. Incumbent Sheriff Sidney Dorsey missed an outright victory by less than 1 percent of the vote, and was forced into a run-off with reform candidate Derwin Brown. Our initial story seemed to open the floodgates, because Sheriff’s Department employees began coming to us with exclusive

information regarding more departmental corruption. One of the stories exposed the fact that Patrick Cuffy, a man with a criminal record, had been deputized, given a take-home squad car, arrest powers and a gun, even though he’d never been trained or certified as a police officer. Our investigation also revealed that he was allowed to work unlimited (and unsubstantiated) overtime, exploding his \$40,000 base salary to six figures.

A few weeks later, Brown defeated incumbent Dorsey by a three-to-one margin. Because there was no Republican or Independent in the race, Brown had won the office. At Brown’s victory party that night, the crowd chanted “giant killer, giant killer” and “clean it up, clean it up.” Derwin Brown never got the chance.

My doorbell rang at 12:30 a.m. on Dec.15, 2000. The news was beyond belief: Brown had been shot 11 times in front of his home – just two days before taking his oath of office. The same night, officers visited the home of Dorsey and Deputy Patrick Cuffy. According to authorities, Dorsey was home, Cuffy was not. Our exclusive report revealed that Cuffy didn’t arrive home until after 6 a.m. that day, even though he told investigators he’d been home all night.

Three months later a shootout occurred at Cuffy’s home. Sources told us the shootout was caused by a dispute over drugs, and it led to the death of one of the participants, Jeffrey Nigel George. Police have now arrested Cuffy and others for George’s murder. They say George’s slaying is connected to Brown’s assassination; they say the weapon that killed Brown was present at both murder scenes.

There is no evidence, to our knowledge, that Dorsey had any involvement in Brown’s death. Dorsey strongly maintains his innocence, but acknowledged in an interview with us that he fears it could have been the work of a misguided department employee.

Meanwhile, DeKalb County District Attorney J. Tom Morgan presses on with two special grand juries. One continues to investigate allegations of corruption against Dorsey. The second investigates Brown’s murder.

Police say arrests in Brown’s slaying are imminent.

*Dale Cardwell is a general assignment reporter for Atlanta’s WSB-TV. He is a four-time Emmy winner, including one for investigative reporting. He also has won NABJ’s “In-Depth Reporting” award, and several Green Eyeshade awards from Atlanta’s SPJ chapter.*

**CFIC to expand role**

By Aron Pilhofer  
of *The IRE Journal*

The Campaign Finance Information Center was founded by IRE as a resource for journalists trying to negotiate the oft-tangled trail of money in elections. Our mission is to help reporters move beyond the dollar signs and decimal points – to bring context and depth to their reporting on campaign finance.

With more national focus than ever on the issue and the 2002 elections on the horizon, the CFIC will be the place for reporters to go for help, tips and training.

While there is a lot in the works both short- and long-term for CFIC, some of the changes you are going to see over the next few months include:

- Additions to our Web site, [www.campaignfinance.org](http://www.campaignfinance.org), to make it more useful for journalists looking for nuts-and-bolts information about covering campaigns and elections. The CFIC continues to catalog the best campaign finance stories done by journalists across the country in a searchable database, which is online at the CFIC Web site, with more resources like this available in the coming months.
- A revamping of *Tracker*, our quarterly electronic newsletter. The publication will focus not just on what journalists across the country are doing in the field, but how they did it. The latest issue is now available electronically at our Web site, and soon you will be able to receive it by e-mail as well.
- Training, which will be a major focus in the coming year. The CFIC is sponsoring seminars designed to give reporters a working knowledge of how to use and analyze federal, state and local campaign finance data. Two have been scheduled so far, with more in the works.
- An IRE beat book, which will help even novice reporters make sense of campaign finance on any level. The publication will be available soon.

Check out the CFIC Web site for more information about what we offer.

*Aron Pilhofer is the director of IRE’s Campaign Finance Information Center. Contact him with questions or comments at [aron@ire.org](mailto:aron@ire.org).*

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## WEB GAMBLING PUBLIC PROSECUTOR LIVED ON BORROWED CASH AND TIME

CONTINUED FROM PAGE 23

employees. We discovered not only did they not monitor Internet use, but didn't even have the software available to check what sites were being visited.

Such checkups were deemed unnecessary by the state attorney's office. "We have an office full of professionals," contended Bill Reynolds, the chief of technology for the state attorney's office.

But because Florida's Public Records Law allows the inspection of computer records, we asked for Coe's. That's when we got a panicked call from a source inside the state attorney's office, saying that Coe and two aides were behind closed doors, deleting his computer records.

That sparked a series of meetings with our station's news director, Dan Bradley, our executive producer, Kathryn Bonfield, and our attorneys to discuss options, including:

- Filing a lawsuit. Unfortunately, we knew it might be weeks before we got a hearing, and by that time the records might be lost forever.
- Running a story. We didn't have much to go on, however.
- Contacting law enforcement. There were sure to be questions about the media becoming an arm of the law.
- Sitting and waiting, and watching the story possibly go cold and die.

After great debate, Bradley suggested that as citizens of the community, we had a responsibility to notify law enforcement of a possible crime. We called the agency charged with investigating public officials, Florida's Department of Law Enforcement (FDLE).

### Borrowed time, money

While the FDLE took the limited information we had, we watched our investigation stall. No one in Coe's office would go on the record, and the state attorney's office gave us records showing that Coe had visited only two Web sites in the last four years. Reynolds denied any records had been deleted.

But just when our investigation seemed to hit a brick wall, we learned that Coe borrowed thousands from people who worked for him.

And even though it was revealed on his financial disclosure form with Florida's secretary of state in Tallahassee, it didn't show up in his personnel file in Tampa that also required financial disclosure of such loans.

That's when sources in Coe's office told us about other undisclosed loans.

Still, Coe stuck to the argument that he considered these loans as being from friends – not employees. In an interview, he claimed he had not compromised his position because he had nothing to do with these employees' job performance evaluations, and had paid back all the money he owed. He denied borrowing money from anyone else. Our check of records, however, showed that employees who loaned Coe money clearly had their evaluations done by him.

Coe further denied destroying computer records, claiming that not only did he not know how to use a computer, but he had no use for one in the first place. He kept up his denials even when we showed him the information we had such as his password, his user ID, and the greyhound racing Web site he visited.

Our first story aired July 10, 2000, and outlined how Coe borrowed thousands of dollars from people who worked at his pleasure, his growing debt and criticisms from other state attorneys about such loans.

As other media outlets began picking up the story, we learned the issue was under review by Gov. Jeb Bush, who directed the FDLE to investigate the loans and the handling of public records by the state attorney's office.

That night we told our viewers that we had reported our concerns about Coe's failure to follow the state's public records law to authorities.

### Death threats

After firing one of his longtime friends who loaned him money, Coe disappeared.

On July 14, as the rest of the media waited at the courthouse for Coe, my partner and I drove to his apartment complex, and watched as some of Coe's closest friends and aides searched the area for him. He was obviously missing.

We waited a couple of hours, circling the complex several times.

It was on the final drive that I noticed a man sitting beneath the expressway. As we drove closer, my partner noted that whoever it was had blood on his shirt.

It was Coe, and he was dead.

The backlash from the public was intense. The hundreds of e-mails and phone calls to us included death threats.

Security at the station was heightened, and the sheriff's office put my house under a special watch.

In the weeks to come, in the midst of FDLE investigation, we filed another public records request for Coe's computer records. This time the state attorney's office coughed up records showing Coe visited Internet gambling sites.

We aired a report revealing Coe's office withheld information and broke the law.

The next day, Reynolds, the spokesperson for the state attorney's office, resigned.

In the following days, we reported Coe visited greyhound racing Web sites more than 800 times; bounced \$30,000 in checks at local dog tracks; took money from his re-election campaign to pay off debt; borrowed money from other employees that he failed to disclose; ordered the destruction of public records; maxed out more than 20 credit cards; and was about a half-million dollars in debt.

What we all learned was that this was not the action of a responsible public official. But it was the profile of a compulsive gambler.

Coe had tried to hide his secret. And it was that secret, says the Florida Council on Compulsive Gamblers, which probably helped Harry Lee Coe pull the trigger.

*Steve Andrews has been an investigative reporter for WFLA-TV in Tampa, Fla., for 16 years. He was an IRE Award winner in 1990.*



Harry Lee Coe borrowed thousands from employees.



# SUPREME DEALS

## JUDGES' ABUSE OF POWER EXPOSED

CONTINUED FROM PAGE 23

bar groups for the unprecedented attack ads he ran against his popular opponent.

### Secretive system

In April 2000, we learned the FBI had subpoenaed records of all the appointments going back 10 years for all the temporary judges appointed from Cook County. They had interviewed the three justices from Cook County, including Freeman, and were preparing to indict one of the judges he appointed – George J.W. Smith. Though it had not yet been made part of any formal indictment, we heard federal investigators believed Smith bribed a politician \$20,000 to secure his appointment by Freeman. The indictment charged Smith only with taking the \$20,000 out of the bank in three smaller installments to avoid the bank notifying the government of a withdrawal of \$10,000 or more.

We had our news peg. We set out to do the first-ever story on the secretive judicial appointment system.

In Illinois, courts are immune from the state Freedom of Information laws. But the Supreme Court spokesman agreed to give us a list of all 100-plus appointees over the last 10 years. He refused to provide the information about which of the three justices had appointed each one, even though these facts had been given to the FBI.

The Supreme Court had always made the appointment in the name of the entire court, even though a formal rotation system existed in which each justice would in turn appoint his or her own person.

To find out which justice appointed which judge as a favor to which politician, we had to spend long hours cajoling sources – lawyers, judges, appellate justices. Rapport with the judges had been developed through years on the legal affairs beat, and sometimes the appointees themselves would divulge the information. Other times, we looked for connections such as which justice swore in a judge.

The extensive work included reporting by Cam Simpson, Fran Spielman, Michael Sneed and John Carpenter and editing by Don Hayner.

### Political clout

We began digging through public records for information on the justices and their most controversial appointees. We checked court documents; ethics statements; property records; federal and state tax lien records; bankruptcy court filings; voting records; U.S. Coast Guard and other boat ownership records (that took a lot of FOI requests to the local park district where the judges moor their boats); nursing home records; campaign records; records of the state attorney disciplinary agency; property records; racehorse ownership documents; and appellate court opinions.

We used the information we uncovered to compose a database listing each appointed judge, his or her appointing justice, the name of his or her political “clout,” how many appointments and re-appointments he or she received, and whether the appointment turned into a permanent judgeship.

By checking the personal investments Freeman listed on his ethics statements, we found he had an ownership interest in two nursing homes with the family and wife of one of his judicial appointees, Marv Leavitt. We found out his wife’s family cut Freeman in on the lucrative nursing home deal two weeks after Freeman gave Leavitt the first of three appointments to the bench.

Ironically, Leavitt mentioned Freeman’s name as a joint property owner on his ethics form. But Freeman did not list Leavitt’s name on his.

As with Zwick, Leavitt’s appointment to the bench raised eyebrows. Then, when Freeman leapfrogged both men over more experienced jurists to temporary assignments on the prestigious appellate court, judicial jaws dropped. Leavitt’s judicial experience was a stint in traffic court. Zwick had been shaking the rafters in housing court, where he tried to jail a nun who refused his order to test hundreds of school children for lead poisoning.

Further, we reported Zwick took

\$15,000 in campaign donations from a law firm with a case before him. Zwick later ruled in the firm’s favor.

Two days after the *Sun-Times* faxed Zwick more than four pages of questions on his personal finances, Zwick announced his retirement from the bench. Zwick offered inconsistent versions of his personal finances in his divorce proceedings and in other cases in which he was a litigant. While he sat in

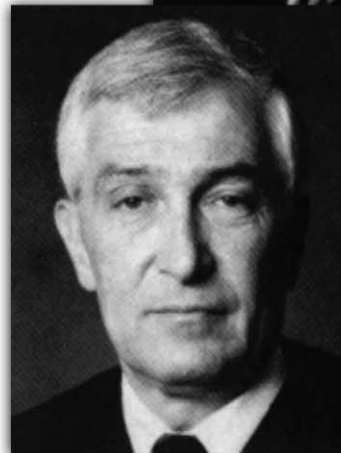
John H. White | Sun-Times



Edward R. Vrdolyak, above, was influential in getting three judges appointed by his friend, Illinois Supreme Court Justice Charles Freeman.

Mort Zwick was one of the lightning-rod appointments.

Charles E. Freeman was elected the first African-American Illinois Supreme Court Justice in 1990.



John H. White | Sun-Times



housing court, he had an interest in a slum property.

We heard Freeman appointed one woman just because her ex-husband, an old Zwick buddy, said his wife needed a job and wanted to be a judge. Through interviews and a check of the divorce records, we verified it was true.

We went to lunch at Manny's Deli and watched Freeman lunch with Zwick, Leavitt and other appointees. Freeman admitted he also went to Vegas with the guys. By checking county land records, we found three of Freeman's appointees had federal income tax liens against them at the time he appointed them. A judge who resigned from the bench after being arrested for marijuana possession in Belize was referred to Freeman by former U.S. Sen. Carol Mosely Braun.

Freeman appointed at least three men to the bench as a favor to his buddy, notorious Chicago wheeler-dealer Ed Vrdolyak. Ironically, Freeman was a friend and former law partner of Harold Washington, who Freeman swore in as the city's first African-American mayor. Vrdolyak was Washington's nemesis.

To his credit, Freeman granted us interviews in which he candidly explained that Vrdolyak had stood by him through tough elections and he still considered him a friend. Freeman and his fellow justices gave surprising answers as to why they appointed some of these people to positions where they ruled over other people's lives. Freeman said he never met the now-indicted Smith – he only appointed him as a favor to Vrdolyak; likewise with Braun's friend.

Justice Mary Ann McMorro admitted she gave Smith a second appointment to the bench without ever meeting him or knowing anything about him. It might have been his ward committeemen who asked her for the appointment, she said.

In the wake of our stories, McMorro and newly elected justice Thomas Fitzgerald established committees to screen potential appointees. Freeman did not, but did say he would ask the bar association to make sure his appointees have no outstanding tax liens.

*Abdon M. Pallasch covers legal affairs for the Chicago Sun-Times, while Chuck Neubauer is joining the L.A. Times investigative team in Washington, D.C., after 18 years as an investigative reporter for the Sun-Times.*

# Knight-Bagehot

## Columbia University is now accepting applications for the Knight-Bagehot Fellowship in Economics and Business Journalism.

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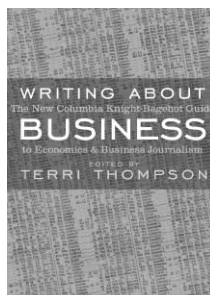
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# GOLF STADIUM STUMBLE

Shady dealings land officials in sand trap

BY GINA EDWARDS  
OF THE NAPLES DAILY NEWS

**E**SPN founder Bill Rasmussen touted his Stadium Naples brainchild as a revolution for golf – a grand spectator arena with luxury sky boxes surrounding the final hole of a made-for-tournament-play course. But instead of attracting money, stars and great exposure for this upscale city off Southwest Florida’s coast, Stadium Naples attracted indictments for public officials and investors.

The story began in June 1997 with no great feat of investigative reporting. A press release came across the fax machine late on a Friday afternoon listing Collier County Commissioner

John Norris as a development partner in a golf and real estate project called Stadium Naples.

The questions were obvious. Nearly six months earlier, Norris had cast votes to bail Stadium Naples founder Rasmussen’s Senior PGA golf tournament foundation out of financial trouble with an infusion of \$500,000 in taxpayer money. The tournament was planned as Stadium Naples’ future centerpiece event. Norris and others also voted to waive audits of that grant, and also retroactively waive an audit of \$500,000 the county gave the golf tournament the year before.

When Rasmussen and other Stadium Naples

backers announced plans for the golf arena with great fanfare eight months earlier, they didn’t mention that Commissioner Norris was a partner.

After breaking the initial story about Norris’ involvement, we got our hands on a copy of the private placement memorandum for the deal that spelled out the commissioner’s share. Norris put up no money, but received a 12.5 percent partnership stake, along with an \$80,000 annual consulting contract and lifetime golf membership. Based on the partners’ projections, Norris could gain up to \$7.5 million on the deal.

Despite Norris maintaining that the Stadium Naples start-up company wasn’t officially formed until May 1997 – which he says meant he had no past vote conflicts – I obtained a copy of a private memo showing that Norris knew what stake he’d get as early as October 1996.

The public was outraged and an investigation by local authorities was launched. The project’s original development backers dropped out, citing community reaction to Norris’ role.

## The new deal

Not long after the first Stadium Naples collapsed, Rasmussen began working to resurrect his plans with brokerage A.S. Goldmen & Co. and the firm’s Naples owner, Anthony Marchiano.

In April 1998, agents from the Manhattan District Attorney’s Office raided A.S. Goldmen’s offices and Marchiano’s home. I obtained a copy of the private placement memo that detailed efforts to raise money for Rasmussen’s new Stadium Naples deal.

I found a source named Thomas Benson whose Naples company provides a service called Stockbroker Analysis. He helped me tap his vast network of contacts: securities attorneys who represent investors in arbitrations against brokers. Many had tangled with A.S. Goldmen. Using SEC documents on-line, I found that Stadium Naples partner company Millennium was failing financially.

At my request, state regulators analyzed the proposed stadium deal and found many red flags, and by June 1998, Rasmussen pulled the plug on his second attempt at Stadium Naples. I reported that his financially failing golf tournament foundation had stiffed a local charity the roughly \$770,000 promised.

I kept digging and tracked brokers’ regulatory and work histories by obtaining copies of their so-called CRD reports and discovered that many

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An artist's rendering of Stadium Naples.

had little past experience and some had criminal records. (These are available from the National Association of Securities Dealers Web Site at [www.nasdr.com](http://www.nasdr.com), but state regulators typically have more complete reports.)

Eventually some brokers talked, and I found numerous customers with stories about abuse. Goldman brokers sent some customers copies of misleading promotional material that described the first Stadium Naples deal, not the one being sold to investors.

### Probe re-opened

Later that year, State Attorney Joe D'Alessandro closed his Stadium Naples investigation of Norris and Rasmussen with no charges. He said a deal likely existed between Norris and Rasmussen, but he couldn't prove a "votes for pay" exchange.

Then I heard a rumor that State Attorney D'Alessandro had invested in Stadium Naples. I thought it couldn't be true. Still, I checked into it and found that on his most recent financial disclosure form, he listed owning stock in "Millennium," a common company name at the time. Checking back multiple years, I saw the stock was the Stadium Naples partner company listed under its previous name.

The finding touched off public outrage. Gov. Jeb Bush intervened in April 1999. State agents, fact-finding for Bush, found D'Alessandro bought stock in Millennium during his Stadium Naples investigation. They also found his name on a list of potential investors in the second private deal to finance Stadium Naples.

Agents said D'Alessandro's probe wasn't compromised but more investigation was needed. At Bush's request, federal prosecutors re-opened

a probe to include Norris, Rasmussen and the grants.

Later that year, Goldman's owner Marchiano and 32 others were indicted in a nearly \$100 million stock fraud manipulation case in New York. Manhattan District Attorney Robert Morgenthau's office denied my requests for discovery evidence traded between the prosecution and defense in the Goldman case. We thought such records might shed more light on corruption in Naples. We got a favorable opinion from New York's Committee on Open Government, but still got stonewalled. We sued the DA for access in 2000, but lost.

### No collateral due

In 1999, four Collier commissioners faced complaints before Florida's ethics commission for gift and other violations. Examining the ethics commission's track record, I put 25 years worth of disciplinary actions into a spreadsheet and found that the commission had removed only five elected officials from office out of more than 550 actions. The panel's median fine was a mere \$200. (Eventually, Collier County and the City of Naples passed local ethics laws governing gifts that are more stringent than state code and carry criminal penalties.)

In June 2000, Norris admitted trading influence in the civil ethics commission case. One day later, local prosecutor D'Alessandro's office arrested and charged Norris with taking unlawful compensation. Bush suspended Norris from office.

In early 2000, *Barron's* ran an explosive cover story that questioned the investment claims and background of Naples hedge fund manager David Mobley, who was one of the original

Stadium Naples developers that pulled out. I jumped on the story and Mobley admitted to me that federal regulators had seized records at his Maricopa Investment empire.

Investors wanted to bail out, and within weeks Mobley confessed to the SEC that he funneled unwitting investors' money to his lavish lifestyle, charities and a series of failed businesses, including the original Stadium Naples deal. A court-appointed receiver took over Mobley's businesses. Digging through one receivership report, I made a startling discovery. With no further detail, the report listed that one of Mobley's companies had made a loan to a company called Educorp Inc.

I remembered that County Commissioner Tim Constantine had included a company by that name on his financial disclosure reports in the past. After some weeks of digging, I reported that Constantine's company obtained a \$100,000 loan with no collateral required – from Mobley in 1997, around the time Stadium Naples plans were hatched. The loan, due in 1999, was never paid back.

Constantine defended the loan, and vowed that he never voted on any of Mobley's projects. After reviewing votes and zoning records, I reported that Constantine had voted more than two dozen times on Mobley-backed real estate projects after the loan. The authorities began to move in:

- In September 2000, local prosecutors arrested Constantine, filing racketeering and influence-peddling counts against him and Norris. Constantine resigned.
- In December 2000, prosecutors arrested real estate mogul Bob Hardy and charged him with conducting a racketeering conspiracy to give the two payoffs in connection with Stadium Naples.
- In April 2001, the judge presiding over the case disqualified D'Alessandro and his office from the Stadium Naples prosecution for a conflict of interest.
- Gov. Bush appointed a special prosecutor from Miami to take over. The case is expected to go to trial next year. Mobley has pleaded innocent to federal money laundering and fraud charges. In late July, Marchiano and others were convicted of racketeering and other crimes in a Manhattan courtroom.

*Gina Edwards is a reporter for the Naples Daily News on Florida's Southwest coast. She won the 2000 IRE Award for investigative reporting at a small newspaper for her stadium stories.*

# BATTERED CARGO

Injured van passengers point to hidden police brutality

BY ROSE CIOTTA  
AND NANCY PHILLIPS  
OF THE PHILADELPHIA INQUIRER

For Philadelphia, the police beating of Thomas Jones came in July 2000, as the city was dressing up to host the Republican National Convention. After years of planning, the last thing the city wanted was worldwide television footage of a police crowd taking turns punching, kicking and handcuffing Jones, a criminal suspected of shooting at police.

For *The Philadelphia Inquirer*, the incident triggered immediate questions: was Jones' experience rare or routine on the streets of Philadelphia? Had the police and its commis-

sioner followed through on reforms promised five years earlier to settle a federal class-action lawsuit?

An unexpected thing happened on the way to that story. We found another one: the hidden but pervasive police tradition of taking suspects for a ride – known as a “nickel ride.” Handcuffed suspects were routinely taken on wild and jolting rides in the back of darkened police wagons that lacked seat belts or padding. With each jarring start and stop, victims were thrown from the low, narrow benches and tossed about inside the wagon and its hard floor and walls. Many were solid citizens with clean records who were taken into custody after arguing with, or talking back to police officers, and later had the charges against them dropped. But they emerged from the vehicles with injuries, some of them serious. In two cases, the victims were left permanently paralyzed.

A three-part series published in June detailed the injuries suffered by 20 victims who were paid \$2.3 million in city legal settlements. The series, “Battered Cargo,” also disclosed that no officer had been disciplined for the practice. In fact, the police department's internal affairs division had not investigated 11 of the 20 cases even though the victims needed hospital treatment. And while evidence of injuries – and costly settlements – had been accumulating in city legal files for years, the department did not move to curb the practice.

When *The Inquirer* revealed the nickel rides, Police Commissioner John F. Timoney pulled the department's 86 patrol vans off the street and ordered that they be upgraded with

seat belts and padding. By September, the job was done. The commissioner also ordered an investigation of all 20 cases documented by *The Inquirer*, and internal affairs opened an inquiry into each one. The City Council has called for hearings on the wagon injuries and the disciplinary system that allowed them to go unpunished.

Meanwhile, *Inquirer* reporter Mark Fazlollah's stories revealed that the cover-up of a police captain's car accident – and the mild penalties imposed in its wake – led the mayor to name a special panel to examine police discipline. Hearings were scheduled on this, too. Together, the stories led to a wave of public interest in police accountability.

## Rough rides

In Philadelphia, no one entity collects information about all claims of police brutality. We found five places to look for evidence of such claims: citizens' complaints filed with the city police department and a citizen commission; lawsuits filed in state court over injuries sustained in police custody; civil rights suits filed in federal court; and city financial records of settlements of claims involving police use of force.


We decided to examine four years worth of city settlements and federal court cases. Isolating the records required tapping into computer databases at City Hall and in federal court.

The court provided a list of all civil rights cases, but they did not code by defendant and could not isolate claims filed against the city, its officers or the police department.

Knowing we would soon be swimming in a sea of paper, we looked to the computer to help us again. We designed a database in which we could record 77 facts about each case including where the incident occurred, the injuries sustained and the police officers involved.

The settlement documents were especially rich because they typically contained not only the amount of the payment, but also internal memos written by city lawyers explaining why the city should settle.

For weeks, immersed in paper, we began to break down the cases into nuggets of information. A Web-based “front end” helped with data entry, which we handled ourselves (with help from *The Inquirer's* projects editor, Marc Duvoisin). Summarizing each case for entry into the database required evaluating



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## A Wagon Ride Ends in Tragedy

Here is how Gino Thompson suffered a paralyzing injury in a police wagon, as described in an Internal Affairs report, legal documents, medical records and by Thompson himself.

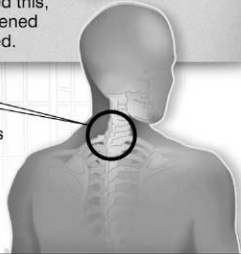


**1 Thompson is arrested and handcuffed**  
On April 10, 1994, a drunken Thompson is arrested outside a North Philadelphia convenience store. He is led into Emergency Patrol Wagon 2202.

**2 Wagon departs for police district**  
The wagon heads south on Broad Street.

**3 "Nickel ride" begins on Broad Street**  
Thompson says the driver speeded up, then stopped suddenly, throwing him headfirst against a partition. The driver denied this, but his partner said it happened just as Thompson described.

**5 Paralysis is confirmed**  
At Thomas Jefferson University Hospital, doctors diagnose a dislocation of two vertebrae near the base of the neck. Thompson is paralyzed from the waist down.



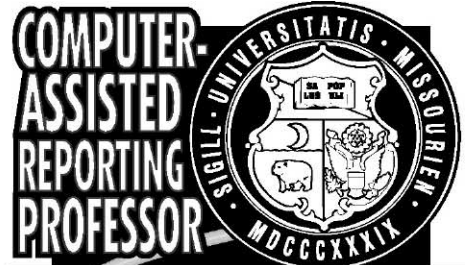
AARON STECKELBERG / Inquirer Staff Artist

**4 Thompson complains of injury**  
When the wagon arrives at the 22d District police station, Thompson tells the officers he can't stand up. They drag him out and put him face-down on the floor of a cell. Later, he again complains of paralysis, and police summon an ambulance.

Gerald S. Williams | The Philadelphia Inquirer



Gino Thompson is paralyzed from the waist down as a result of a rough ride in a police wagon. He was arrested on April 10, 1994.



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Michael S. Wartz | The Philadelphia Inquirer



Calvin Saunders is paralyzed from neck down after allegedly suffering neck injuries in a police van while handcuffed. He recalls how the police wagon sped up, then suddenly stopped, propelling him headfirst into a wall.

sometimes-conflicting information. The fullest account of an incident came in cases in which we had both federal court papers and records of city legal settlements.

By fall, the database had some 300 cases. Reviewing them led us to the proverbial needle

in a haystack of paperwork.

As we read through the cases, a disturbing pattern emerged. People were being hurt in police wagons. Among the settlements was the \$1.2 million the city paid to Calvin Saunders, 21, who was taken on a rough wagon ride

and emerged paralyzed from the neck down. *The Inquirer* had reported the case when it happened on April 1, 1997, but we now saw that it was part of a larger phenomenon. Saunders' suit referred to an earlier wagon incident that left another man paralyzed from the waist down in 1994. That suit cost the city \$600,000.

Wagons, we decided, were a story.

By now, the database was nearly complete. One of the fields listed the place of injury, so we queried for all of the cases in which an injury occurred inside a "police vehicle." The database had a comments field in which we summarized the case and captured other details. We queried this field for any case in which the word "wagon" or "van" appeared – and found dozens to consider.

Finally, we set about interviewing the victims. They were a diverse group, from all walks of life, with different ethnic backgrounds and from various parts of the city. We were struck by the similarity of their experiences. They described being tossed from the wagon's low benches and hurtling into walls or rolling across the floor. Victims who had never spoken to one another used similar language to describe their experiences.

Among the victims was a minister on her way to church one Sunday morning in a mink coat and heels who stopped to protest after seeing police officers beating a man who was handcuffed. Another was a doctor out with friends after a bachelor party at a waterfront nightclub. Yet another was a fish monger who was arrested after challenging a parking ticket.

We were surprised at how reluctant they were to come forward. While some agreed to interviews and photographs others declined to talk to us. Some said they feared police retribution. Others preferred not to publicize their arrests, even when charges were later dropped.

The two men who were paralyzed were especially reticent. One asked what good would come from reliving the experience by talking about it. Eventually, Gino Thompson did recount his harrowing ride in a police wagon and how it had unalterably changed his life. "I wish it wouldn't happen to the next person," he said. "I wouldn't wish it on a rat."

Calvin Saunders, 25, who was paralyzed from the neck down in a wagon ride four years ago, repeatedly declined to be interviewed,

## STORY TIPS

By Rose Ciotta and Nancy Phillips

### For those investigating public officials or public organizations, consider:

- Being open to the story you aren't looking for. Seeing unexpected patterns and acting on them can be one of the most difficult things you can do, especially when you and your editors are invested in following a project in another direction.
- Taking the time to learn the codes and details of a government accounting system like the payouts on legal settlements. Spend time with the auditor to fully understand the internal paper trail. We initially dismissed the cases that settled for less than \$4,000 only to find later that many interesting cases were hidden there.
- Gathering paper from every possible source. In some cases, the full story emerged only after we had records from various city offices including the city's law department, as well as the police department, court and hospital records. One document confirms another and often leads to new information.

- When designing a database, take the time to consider all possibilities for retrieving the information. Initially, we flagged only broken bones or cuts requiring stitches. After analyzing the first batch of cases, we realized that most cases listed "other" for injuries since the victims had suffered cuts and bruises. We had to back-track and allow for more injury options in the data entry.
- Being organized. In order to manage the cases, we created paper files but each case also had a case number that corresponded to the computer record.
- Always asking if other cities have faced the same problem. Still, it could be that yours is unique. When we looked at other cities, we found that most had progressed to transporting suspects in the back of police cars with seat-belts. Philadelphia's brand of wagon ride was an anachronism in most of the country. Chicago, for example, had switched to new wagons with restraint bars similar to those on amusement park rides. Prodded by a string of lawsuits, Chicago took 11 years to rid the streets of the old wagons.

saying it was too painful to talk about what the police did to him. In time, he did speak to us, recalling without bitterness how he stepped into a police wagon an able-bodied man and emerged as a man who would never walk again.

He recalled how the wagon sped up, then suddenly stopped, propelling him headfirst into a wall.

“They were deliberately trying to hurt me,” he said.

### Hidden brutality

Following the threads inside the police department posed its own challenges. A mayoral executive order gave us the right to internal affairs documents on cases in which the victims had filed citizen complaints. Only a few did. The department had investigated only nine of the 20 cases we examined. Internal affairs is supposed to investigate every case in which a suspect is taken to a hospital with injuries. That did not always happen.

Questioned about those lapses, the police commissioner ordered an investigation. “If

you’re being stitched up in a hospital,” he said, “...Internal Affairs should be notified.”

Despite the parade of injuries, none of the officers in the 20 wagon cases had been disciplined. In fact, we learned that the department had never disciplined an officer for taking someone on a nickel ride – a practice so enduring that it traces its nickname to the days when amusement park rides cost five cents. We interviewed current and former officers who confided that the tradition continued in part because the behavior was difficult to prove. Officers intent on inflicting harm need not lay a hand on the suspects to punish them, and a sudden stop – and the injuries it causes – can be explained away as an attempt to avoid an accident. So, police commanders say such cases were difficult to prove.

While evidence of a problem had been accumulating in city legal files for years, the police and the city administration were in no hurry to make the wagons safer. That was clear once we put all of the facts – incidents, lawsuits, settlements – into a timeline. We also learned that the city would include a

\$1,300 safety upgrade (seatbelts and padding), whenever it replaced old wagons. But only 10 wagons a year were being replaced. At that rate, it would take until 2008 to get the old wagons off the streets. All of that changed once the *Inquirer* began asking questions.

Reader reaction was swift and passionate. We got dozens of calls, e-mails and letters from readers who said they were grateful that we exposed this hidden form of police brutality. We heard, too, from officers who said nickel rides were a thing of the past.

Perhaps the most touching response came from the aunt of Calvin Saunders, the young man left paralyzed. “Just reading the article brought tears to my eyes,” she said. “Thank you for making it so nobody forgets what happened to my nephew, and thank you for making it so this won’t happen to somebody else’s nephew or son.”

*Rose Ciotta, a veteran investigative reporter, joined the Inquirer’s computer-assisted reporting unit in 1998. Nancy Phillips, an Inquirer reporter since 1985, does primarily investigative work.*



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David Helvarg



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# IN DEEP

Covering the oceans that cover the earth

BY DAVID HELVARG  
FOR THE IRE JOURNAL

The oceans may cover 71 percent of our blue planet. They may play a key role in everything from climate to trade, recreation, sprawl, national security, pollution, food, science and species extinction. Their very scale, however, seems to dwarf our ability to get a good story handle on them.

That's not to say some great and salty investigative reports haven't been done by people on the environmental, business, national security, and energy beats, but who out there regularly walks the wet sands of the oceans beat?

After more than 20 years of living by the beach, body-surfing, diving and doing piece-meal coverage on some of the major oceanic issues, I finally got the chance to commit a year to an investigative book on ocean politics.

Luckily, I'd developed a "hook" that allowed me to reduce my focus to the 3.4 million square nautical miles of America's Exclusive Economic Zone (EEZ), an area roughly six times the size of the Louisiana Purchase (30 percent larger than the continental United States).

My premise and guiding metaphor was the American frontier, our first one having been declared closed by the Census Bureau in 1890, and our new blue one reopened by Ronald Reagan's little-noted declaration of an American EEZ in 1983 (inspired by the false promise of a deep-sea mineral mining bonanza).

Still, if I had begun my project by trying to understand the institutional structures by which America's ocean frontier is governed, I probably would have drowned myself to save my readers the pain. In fact, when I finally did get a sense of who did what, I wrote it up as a chapter titled "Drowning in Red Tape."

## The big fish heads

Today, responsibility for ocean governance is divided among half the president's cabinet, 15 federal agencies, 44 committees and subcommittees of Congress, along with a mangrove tangle of coastal state and local agencies. One example: The Department of Commerce's National Marine Fisheries Service is responsible for turtles at sea, but the U.S. Department of the Interior's Fish and Wildlife Service is responsible for nesting turtles. If a turtle gets in trouble in the surf, it becomes a jurisdictional dispute.

Many agencies also have evolved into classic examples of the sea lion guarding the salmon pen. The nation's eight regional fisheries councils, for example, are the only federal regulatory bodies exempted from conflict-of-interest laws.

Rather than start with the tails, I began my

research with the big fish heads, those I consider the key players when you follow the money trail to the water's edge. They are the U.S. Navy; offshore oil and gas; the shipping industry; commercial fisheries; and real-estate developers (17 of the 20 fastest growing counties are now coastal).

For once, being based in Washington three hours from the nearest surf turned out to be a benefit. I could "ground truth" the politicians and agencies before and after numerous coastal and offshore trips.

At the same time, going in, on and under the water gave me opportunities to personalize and dramatize policy impacts. One example: The half-trillion dollar FEMA flood insurance program that has spurred the coastal development boom of the last 30 years, and continues to put people in harm's way (over half this taxpayer exposure is in the hurricane-prone state of Florida).

After learning the numbers and policy rationale, I visited Florida to see how real-estate interests are undermining the one program, the Coastal Barrier Resources Act (CBRA), that exempts a small part of the coast – most at risk of devastation – from federal subsidies.

I found Pumpkin Key, a 25-acre privately owned mangrove island off the wealthy, gated Ocean Reef Club in North Key Largo. Here a multimillionaire wanting to develop his island was able to get U.S. Rep. Pete Deutch and U.S. Sen. Bob Graham to push a "technical correction" through Congress removing Pumpkin Key from CBRA listing, even as the Keys were being evacuated during Hurricane George.

The owner didn't want me on his island and Ocean Reef's management told me I was only welcome if I came in as a member's guest. But not knowing Kathy Lee and Frank Gifford, Whitney Houston or the various CEOs who winter there, I found it more convenient to visit with one of the commercial divers who scrape the barnacles off their yachts.

Past contacts with surfers, scientists, fish cops, Navy dolphin trainers, etc., also helped my research. I knew, for example, that the Navy is good for access if you give them a clearly stated request and lots of lead time (four to six months is about right for flying onto an aircraft carrier).

The National Oceanic and Atmospheric Administration by contrast, requires lots of journalistic hand-holding, not because they're reluctant to release controversial information, but because they tend to forget where they've placed it (which is why many insiders claim NOAA stands for "No Organization At All").

As my contact list grew into the hundreds,

I found myself dividing it into what became practical categories for personal reference: environmentalists/NGOs; government; Navy/Coast Guard; ocean industries; academic/scientists; and politicians. I then re-divided the list by the coastal regions where they worked.

Along with multiple on-site and follow-up interviews I'd also try to get people to talk about the ocean community outside their fields of expertise. This proved highly productive. Oil men like to talk about Navy guys, fishermen about scientists and surfers about developers. And they are a migratory bunch: There was the safety officer for the underwater lab I visited who'd started out diving in the oil patch; the New Jersey activist who'd been a Navy demolitions man; the San Diego surfer who became a congressman; the aide to Sen. Ted Stevens who, having transformed an anti-factory trawler bill into a \$97 million fishing industry subsidy, became executive director of the At-Sea Processors Association.

### Feeding frenzy

Like a grouper or shark, I also became an opportunistic feeder, finding tasty bits of one chapter's story while pursuing another. While visiting a marine lab on Alabama's Dauphin Island to research rising seas, hurricanes and real-estate development, I encountered the scientist-author of a report (funded by the Fertilizer Institute) that had been used to attack Nancy Rabalais, the scientist who discovered the Gulf of Mexico's massive dead zone (caused by algae blooms fed by nutrient-rich fertilizer runoff). And then there

was Billy Causey, the manager of the Florida Keys National Marine Sanctuary, who veered from a discussion of coral bleaching to damning the drug runners of the '80s for overcapitalizing the local lobster fishery.

Years of acting like a hermit crab, or terrestrial pack-rat, also paid off as I was able to integrate old interview notes and stories I'd done with folks like the late Scripps' scientist Roger Revelle – a historic figure in U.S. oceanography – into my more contemporary analysis.

I also worked with a number of useful libraries, databases and linked Web sites, read through hundreds of books and mind-numbing reports on the nitrogen cycle, essential fish habitat, and coastal zone management (that made good footnotes). I became an avid subscriber to specialty magazines like *National Fisherman*, *Sea Power*, *Sea Technology*, *Work Boat* and *Container Management*.

I saw this research as the price to be paid in order to get out to sea for engaging, on-scene discoveries and interviews with the people and critters who populate the blue frontier. (Okay, marine wildlife doesn't interview that well.)

Still, I figure there's no rule that adventure, humor, and describing the kinky sex life of sea otters shouldn't also be tools of investigative reporting. And if the work also gave me an excuse to catch some waves and get some bottom time, that also rips.

*David Helvarg is the author of Blue Frontier: Saving America's Living Seas (WH Freeman, 2001), and The War Against the Greens (Sierra Club Books, 1994).*

David Helvarg



Another barrier island house losing the battle of the tides on Dauphin Island, Ala.

# MEDICAL WELFARE RIP-OFF

California clinics use homeless to file false claims

BY JOEL GROVER  
OF KCBS-TV, LOS ANGELES

This is a story about how our investigative team infiltrated and exposed a huge underground criminal enterprise that was bilking California taxpayers out of a billion dollars a year. It's a story that resulted in a statewide crackdown that put hundreds of fraudulent medical clinics out of business. When this investigation began, all we had was some sketchy information about

an irresistible story.

For months, I'd been getting tips at KCBS describing the same scam: Wealthy Los Angeles doctors were somehow recruiting busloads of homeless patients to come to their clinics. Once there, the homeless patients were asked to fake illnesses, and in return would get paid an illegal kickback. The doctors could then charge bogus treatments to "Medi-Cal,"

the state's welfare program that provides healthcare for the poor.

Sure, it was a great story, but the tips always lacked key information, such as how these homeless patients were recruited, and who was behind this scam. But my producer, Jennifer Cobb, and I were determined to document this amazing scam on undercover tape, start to finish.

## Undercover ex-con

To do this, we decided to send someone undercover, posing as an indigent patient on Medi-Cal, to see if he'd be recruited by a fraudulent doctor. We knew we needed an undercover person who could "walk the walk" and "talk the talk" of the streets, so we hired an ex-convict for the job.

As a counselor in a program to get other ex-cons back on their feet, we felt this person would not only be believable, but had proven himself trustworthy by working on an undercover investigation with us before. At the same time, because he wasn't a staff member, we monitored him closely by hooking him up to a wireless microphone while he worked undercover, listening to his every move from a nearby van. (This also was a safety precaution, since we didn't know a lot about the environment into which we were sending him.)

We began by wiring him with a hidden camera, and placing him with his Medi-Cal card outside a clinic that we heard was recruiting poor patients. Within minutes, other patients were chatting it up with our person, telling him exactly how the scam worked. They told him to show up outside the main homeless shelters on L.A.'s Skid Row by 7 a.m., and to look for a fleet of vans. The drivers of these vans recruited patients to go to doctors' offices across the city, and once the clinic visit was over, the patient would be paid and driven back to Skid Row.

But capturing all this on tape would prove to be very tricky under California's strict, two-party consent laws. Our lawyers would only allow us to shoot video in "public settings," i.e., places where a conversation can easily be overheard by an uninterested party. We instructed our undercover person that he could only shoot in a doctor's office if the door was wide open and there were people around who could hear the conversation. There were a few times when clinic employees went to shut the door, but our person asked that it be left open.

## Probing health care data

By Robert Benincasa  
of Gannett News Service

These Web sites are helpful when sifting through health care, Medicaid and Medicare data:

- **HCFA program manuals:** [www.hcfa.gov/pubforms/htmltoc.htm](http://www.hcfa.gov/pubforms/htmltoc.htm)
- **Downloadable Medicare brochures from HCFA in PDF:** [www.medicare.gov/Publications/Search/View/ViewPubList.asp?Language=English](http://www.medicare.gov/Publications/Search/View/ViewPubList.asp?Language=English)
- **Medicare Guru:** [www.medicareguru.com](http://www.medicareguru.com)
- **Consumer guides to Medicare:** [www.pueblo.gsa.gov/press/nfcmedicare.htm](http://www.pueblo.gsa.gov/press/nfcmedicare.htm)
- **DHHS Administration on Aging:** [www.aoa.dhhs.gov](http://www.aoa.dhhs.gov)
- **Medicaid Managed Care enrollment and penetration rates:** [www.hcfa.gov/medicaid/omchmpg.htm](http://www.hcfa.gov/medicaid/omchmpg.htm)
- **Legislative issues page of the AARP:** [www.aarp.org/indexes/legislative.html](http://www.aarp.org/indexes/legislative.html)
- **Medicare Watch/Century Foundation:** [www.medicarewatch.org](http://www.medicarewatch.org)

*Robert Benincasa, database editor for Gannett News Service, offered these Web suggestions as part of a panel on health care at the 2000 National Computer-Assisted Reporting in Lexington, Ky.*

## LEGAL CORNER

Judicial access rights give  
“proof through the night”

DAVID SMALLMAN

On Tuesday, Sept. 11, 2001, at 9:30 a.m., Chief Justice William Rehnquist convened the 141st session of the Judicial Conference of the United States. That warm and sun-filled morning, 27 federal judges gathered at the Supreme Court building, directly across from the United States Capitol, to consider adopting a judiciary-wide privacy and access policy for court electronic records.

An initial proposal had suggested curtailing Internet access and other public review of “sensitive” information, thereby ensuring that court records would remain “practically obscure” by making them available primarily to litigants and their counsel or only at the courthouse. But after public comment and further study, an amended report reversed course. It recognized a tradition of public access to federal court records “rooted in constitutional principles.” Before the conference had a chance to vote, however, the Chief Justice announced that the Supreme Court would be evacuated immediately and the conference session suspended.

It was 10:15 a.m. The Pentagon was on fire and one of the World Trade Towers had already collapsed. Within 15 minutes, both of the tallest buildings in New York City would be gone, destroyed by a carefully orchestrated terrorist attack that used civilian airliners as explosive devices.

### Democratic renewal

One hundred and forty years earlier, on Independence Day in 1861, President Lincoln appeared before a special session of Congress to request suspension of the writ of habeas corpus. Facing dissolution of a union not even a century old, the “great emancipator and champion of human freedom” found himself endorsing revocation of a fundamental safeguard of personal liberty – the right of a person arrested to be produced in court for an explanation of the reason for detention.

Standing before both houses of the legislative branch with the future of the Republic hanging in the balance, a beleaguered president posed this rhetorical question: “Are all the laws, but one, to go unexecuted, and the government itself to go to pieces, lest that one be violated?” The

answer, although not without dissenting voices, was a resolute “no.” A historian of that period described it this way: “Statements critical of the government, whether appearing in the press or made in the course of political oratory, were punished by fine and imprisonment. Homes of suspects could be broken into without warrants. And none of this was in accordance with laws enacted by any legislature or city council. Martial law was the voice of whichever general was in command.” (William Rehnquist, *All the Laws But One: Civil Liberties in Wartime* (Knopf 1998)).

Two years and five months later, with the outcome no longer in doubt, Abraham Lincoln traveled to Pennsylvania to dedicate a battlefield cemetery. His few words, delivered as the third speaker on the day’s program, were directed to an audience that had suffered losses within its national borders on a scale not witnessed before or since. President Lincoln observed that he could not, in a larger sense, dedicate the hallowed ground beyond what those, living and dead, had already done by their struggle. And so he concluded his Gettysburg Address: “It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here has thus far so nobly advanced. It is rather for us to be dedicated to the great task remaining before us – that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion – that we here highly resolve that these dead shall not have died in vain – that this nation, under God, shall have a new birth of freedom – and that government of the people, by the people, for the people, shall not perish from the earth.”

Moving either backward or forward in American history does not disturb this clear vision of practical self-preservation, tempered by conscience and Constitution. The founding fathers did not waste tears when patriotic mobs smashed loyalist printing presses before fleeing the Red Coat brigades. And in the years to follow, there would be Korematsu and further episodes when civil

CONTINUED ON PAGE 42 >

*David B. Smallman, contributing legal editor for The IRE Journal, is a partner in the law firm of Steinhart & Falconer LLP. He is First Amendment counsel to IRE and NICAR and a member of IRE’s Access and Reporters’ Rights Committee.*

As another precaution, we installed an on/off switch on our hidden camera, concealed in our person’s clothing. That way, if he suddenly found himself in a non-public setting, he could turn the camera off.

### Governor intervenes

Over several months, we got amazing video of our undercover person being recruited by 13 clinics. Each time, they would instruct him how to fake an illness, then pay him a kickback.

Just when things were moving smoothly, we hit a huge obstacle.

To prove conclusively that these doctors had billed Medi-Cal for bogus treatments for our undercover person, we needed state records showing these false claims had been paid. The California Department of Health Services refused to give us these records, possibly because they feared the story would be an embarrassment to them. At first, they claimed all Medi-Cal records were private, but then we showed them the law stating they were public.

Officials kept up the arguments, saying it would take months to retrieve these records (probably because they knew we needed the records as soon as possible as we were within days of airing the story.) I appealed directly to Gov. Gray Davis, requesting an interview about the fraud we had uncovered, and how the secretary of Health Services was stonewalling us. Within hours, the governor’s office directed the Department of Health Services to produce the requested records.

The story was a success. Days after it aired, Governor Davis assembled a strike force of 75 agents who showed up unannounced to audit all clinics in the L.A. area that treat Medi-Cal patients. As a result of those visits, the state discontinued payments to hundreds of clinics that appeared to be fraudulently billing the state, saving California taxpayers \$75 million a year.

Since every state has some type of Medicaid program providing health care for the needy, this is an investigation that can be pursued in many big cities.

*Joel Grover has been the investigative reporter at KCBS-TV in Los Angeles since 1996. During his 20 years in television, he has won nearly every major award for investigative reporting, including two IRE medals. The Medi-Cal fraud story won IRE’s most recent Tom Renner Award.*



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## Houston column

CONTINUED FROM PAGE 4

### Conference postponed

We regret that we had to postpone the National Computer-Assisted Reporting Conference in Philadelphia, but speakers and potential attendees told us it would be nearly impossible to prepare or focus on the conference in October.

Many of our speakers are investigative and data analysis leaders in their newsrooms and they told us, like many journalists, they were working 18- to 20-hour days. The proximity to New York and Washington, D.C., also meant that many of those who planned to participate were deep into the coverage of the terrorists attacks.

We look forward to bringing as many journalists as possible together in March in Philadelphia for the rescheduled CAR conference.

## Legal Corner

CONTINUED FROM PAGE 41

liberties were suspended or ignored in the United States during declared wars or insurrection deemed to be its undeclared equivalent. These derogations of traditional principles of civil liberty have always come to be viewed, in the candor of post-crisis assessment, as both abhorrent and aberrational. In a world of foreign intrigues and dangers from within, the "new birth of freedom" that Lincoln referred to long ago can be viewed not just as the happenstance arrival of an only child, but rather a continuous and self-propagating renewal of democracy itself.

### Accessible to all

For 79 years, the Judicial Conference had not canceled a meeting, but the events of Sept. 11 ended that. While the conference could not be resumed, its goals would not be deterred. Only eight days later – by a mail ballot of its 27 members – the judges completed their unfinished business by adopting policies to ensure ongoing public access to federal court case file information. In addition to directing that civil and criminal court documents remain available at federal courthouses throughout the nation, the Judicial Conference pronounced a "public is public" approach to dissemination of civil and bankruptcy records. By doing so, the Judicial Conference mandated that documents in civil case files should be made

## MEMBER NEWS

CONTINUED FROM PAGE 5

off demands by Ohio prosecutors to review all his research. ■ **David Smallman** is now a partner at the San Francisco law firm of Steinhart & Falconer LLP. Smallman, who specializes in First Amendment, access, media law and intellectual property, recently opened the firm's New York office. He is also contributing legal editor for *The IRE Journal* and First Amendment counsel to IRE. ■ **Emily Sweeney** has joined *The Boston Globe* as a staff correspondent. She was formerly a writer for the *Waltham Daily News Tribune* in Massachusetts. ■ After receiving her bachelor's degree in anthropology from Brown University, **Shannon Tan** has started a one-year internship with *The Miami Herald*. She'll be reporting on business and personal technology. ■ **Byron Wells**, formerly a writer for *Northwest Explorer*, has moved to the *East Valley Tribune* in Mesa, Ariz., as a crime reporter.

available through electronic means, including the Internet. Minor exceptions would protect certain personal data identifiers such as social security numbers, dates of birth, financial account numbers and the names of minor children. But the bulk of the public data would be readily accessible to all.

Proponents of the end of irony may therefore need to avert their gaze when considering that the third branch, in its collective wisdom and at a moment of extreme provocation, still chose not to permit privacy to trump altogether the public's right to monitor the administration of justice. And past history – even the recently bottled vintage of James Bamford – suggests that neither "unanticipated asymmetries," nor the newly appreciated work of a secret court created by the Foreign Intelligence Surveillance Act, nor the sundry sections of the proposed Anti-Terrorism Act of 2001 will, in the end, derail cherished freedoms. Buildings can be brought down, but shared values endure. And if, for a time, there were too many lawyers and not enough spies, perhaps there will also soon be more teachers and fewer preachers.

As William Cullen Bryant observed in his poem "The Battlefield:" Truth, crushed to earth, shall rise again. Journalists, judges and others engaged in the pursuit of constant fact-finding should derive comfort from that proposition. Armchair defenders of abstract fanaticism and naive pacifism may not.



## Books

CONTINUED FROM PAGE 10

the compactness of a congressional district. These are techniques that can be used by any reporter who knows how use mapping software. You could rank proposed districts on scales of compactness, describe what this means to readers, and find interesting questions to challenge decision-makers.

### Deceptive silhouettes

Monmonier is wry when he titles one chapter “What A Friend We Have In GIS.” He means that anyone with an agenda can manipulate mapping software, or geographic information systems. Don’t believe law review essays that claim GIS offers “nonpartisan and objective” solutions to redistricting. That’s impossible. “Manipulations are inevitable,” Monmonier warns. The challenge for reporters is spotting those manipulations.

No matter how philosophical the arguments get about shape, and they do get esoteric, Monmonier does not forget that appearances are important – “because highly irregular districts, at odds with how most Americans think elections districts should look, are a form of cartographic mischief.” At least two states have statutes that require compactness as part of the way to formulate districts.

For reporters who have yet to develop skills with mapping software, this book is helpful for covering redistricting. It gives a history. It can help for comparing your state’s approach versus those elsewhere in the nation. The footnotes provide a good guide for finding experts on all sides of the issue. This book also summarizes how courts have examined redistricting plans, and why judges have permitted more leeway for partisan jiggery versus those accounting for racial or other concerns.

And if you’re attending a redistricting press conference, and someone hands you a silhouette map for a congressional district, be skeptical. No matter which side is handing out that map. Monmonier gives good reasons for why these silhouettes – just like ink blots right out of a Rorschach test – can be deceptive. This book can help you with the right follow-up questions.

*Andy Lehren, a producer for Dateline NBC’s investigative team, specializes in computer-assisted reporting. He is currently working on an IRE mapping handbook with Jennifer LaFleur of the St. Louis Post-Dispatch.*

INVESTIGATIVE REPORTERS AND EDITORS, INC. is a grassroots nonprofit organization dedicated to improving the quality of investigative reporting within the field of journalism. IRE was formed in 1975 with the intent of creating a networking tool and a forum in which journalists from across the country could raise questions and exchange ideas. IRE provides educational services to reporters, editors and others interested in investigative reporting and works to maintain high professional standards.

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Contact: Carolyn Edds, carolyn@ire.org, 573-882-3364

**DATABASE LIBRARY** – Administered by IRE and the National Institute for Computer-Assisted Reporting. The library has copies of many government databases, and makes them available to news organizations at or below actual cost. Analysis services are available on these databases, as is help in deciphering records you obtain yourself.

Contact: Jeff Porter, jeff@ire.org, 573-884-7711

**CAMPAIGN FINANCE INFORMATION CENTER** – Administered by IRE and the National Institute for Computer-Assisted Reporting. It’s dedicated to helping journalists uncover the campaign money trail. State campaign finance data is collected from across the nation, cleaned and made available to journalists. A search engine allows reporters to track political cash flow across several states in federal and state races.

Contact: Aron Pilhofer, aron@ire.org, 573-882-2042

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Contact: Ron Nixon, ron@nicar.org, 573-882-2042

### Publications

**THE IRE JOURNAL** – Published six times a year. Contains journalist profiles, how-to stories, reviews, investigative ideas and backgrounding tips. *The Journal* also provides members with the latest news on upcoming events and training opportunities from IRE and NICAR.

Contact: Len Bruzzese, len@ire.org, 573-882-2042

**UPLINK** – Monthly newsletter by IRE and NICAR on computer-assisted reporting. Often, *Uplink* stories are written after reporters have had particular success using data to investigate stories. The columns include valuable information on advanced database techniques as well as success stories written by newly trained CAR reporters.

Contact: Jeff Porter, jeff@ire.org, 573-884-7711

**REPORTER.ORG** – A collection of Web-based resources for journalists, journalism educators and others. Discounted Web hosting and services such as mailing list management and site development are provided to other nonprofit journalism organizations.

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