

**Remarks by Tom Curley
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The Associated Press
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Several weeks ago, President Bush made a dinner speech to a group that calls itself the Alfalfa Club . . . and he got off a pretty good punch line at the expense of Vice President Cheney.

The president told his audience there had been a bridal shower earlier that day for his daughter Jenna. He said friends and relatives gave her a lot of great stuff.

“Mom gave her a toaster,” he said. “Karen Hughes gave her a Cuisinart.”

Then he pointed to the vice president: “Dick here sent over a gift I could tell he’d picked out personally . . . a paper shredder.”

Well, okay, that was actually kind of a groaner. You’ve got to remember the writers were still on strike at the time. So I’m thinking it was a home-made groaner.

Which is exactly why I’m repeating it this evening . . . as evidence – if you needed any – that our annual Sunshine Week festivities, our editorials and op-eds and Freedom of Information audits still can bring chuckles in the upper reaches of the executive branch.

But whatever response the president’s line got from the Alfalfa crowd was not the last laugh on the subject of reflexive secrecy in government. The executive branch is not the only player in town.

Thanks to our system of checks and balances, the Sunshine community has been able to savor some good days recently. After years of playing mostly defense, and mostly getting beat, we’ve finally been able to get back on offense and score a few points.

Let’s take a moment as we call attention to this fourth annual national Sunshine Week to celebrate some accomplishments that not long ago seemed unattainable.

A pretty decent reporter privilege bill has passed the House and cleared the Senate Judiciary Committee. Some give it an even chance of passing the Senate this year.

The House and Senate bills have to be reconciled and, of course, after that, there’s the trip to the White House, which doesn’t like either one of them.

But I don’t think anybody in this room would say any longer that it could never happen in the prevailing political climate.

Three years back the conventional wisdom was that a national shield bill for journalists would be dead on arrival on Capitol Hill and wasn’t even worth introducing.

Yet, the patient is not only alive but ambulatory. He could even walk right into the statute books.

Other democracies like Australia, Japan, Germany, Italy and Mexico have laws that protect reporter sources. In Sweden it's actually illegal for a reporter to give up a source.

And more than 30 states plus the District of Columbia shield news sources by statute, some of them absolutely without exception. Several more are preparing to join the list.

The case of former colleague Toni Locy offers a dramatic example of why a shield law is necessary. Toni bravely is refusing to cough up a source and faces financial ruin even though she has said she has no information of value.

A federal shield law really could happen here even when conventional wisdom says the public and their elected leaders don't like reporters very much.

We saw something almost as amazing happen not so long ago. President Bush rang in the New Year by signing a Freedom of Information Act amendment into law.

That's something few would have bet on when the bill was introduced. And even its most zealous backers were nearly ready to give up on it in the 11th hour before the final version passed both houses of Congress.

We can take justifiable pride in both these accomplishments. It's the product of a lot of hard work . . . and not just during Sunshine Week, but week in, week out, all year long.

Four years ago in a speech in Riverside, California, I offered the idea that it was time for friends of open government in the media to get serious and get organized. I also said we needed professional help if we really want statutes and policies that make it harder for government to keep toxic secrets and stiff-arm citizens who ask to see public documents.

And I said the campaign needed to become institutionalized, full-time and permanent.

Some who are in the room this evening rose to that challenge. They created a coalition called the Sunshine in Government Initiative. And they brought veteran legislative consultant Claudia James of the Podesta Group to the table as a player-coach.

Under the guidance of Claudia and other professionals like Paul Boyle of NAA, Lucy Dalglish of the Reporters Committee, Tonda Rush of NNA and Barbara Cochran of RTNDA, SGI members have engaged directly and effectively with members of Congress and their staffs.

Early last December, even after both House and Senate has passed FOIA bills, it looked like we still were not going to get the statute changed. The two versions were slightly different, and efforts to reconcile them were bogging down in parliamentary mechanics and inter-chamber politics.

The clock was running out, and many of us – myself included – were ready to chalk it all up for the year as a nice try.

Around the SGI table, nobody was thinking that way. They kept their heads and worked the phones. They opened up channels of communication and compromise among the key Hill players.

Without SGI's smart, hard work, and the contacts and credibility nurtured over the last three years, the OPEN Government Act of 2007 might never have made it to the President's desk.

Of course, there wasn't a public signing ceremony in honor of Freedom of Information at the White House on New Year's Eve, and I don't think any pens were handed out. But even if it did happen behind closed doors, the President's signature on the OPEN Government Act was still a great moment for us and for all Americans.

Though as it turns out, it was a lot like that moment of sweet relief right near the end of a horror movie, where everyone thinks the monster is dead . . . just before it lurches back to life for one more round of slashing.

Don't get me wrong, I'm not calling anybody a monster. But this city does have some mean streets, and Pennsylvania Avenue can be one of the meanest. If you don't watch yourself, you can get mugged at either end of it, or in between.

So SGI was alert when the administration slipped a sucker punch into this year's budget bill intended to cripple the new FOIA law. The alarms are now ringing on Capitol Hill and beyond.

The law as it went to the White House provides for an Office of Government Information Services to serve as an ombudsman for FOIA requesters, a sort of referee they can turn to when agencies deny requests.

But a few lines buried deeply in the proposed budget bill would repeal that provision and move those functions to the Justice Department.

It's worse than a bad idea. It's a calculated insult to the sponsors of the legislation from both parties, and to the constituents they intended to help with these important changes to FOIA.

The Justice Department's real job is to advise and defend agencies who want to withhold information. Making Justice any kind of referee in those situations would be like letting Manny Acta call balls and strikes at Nationals' games. So the fight goes on. We're keeping the champagne on ice.

What we can celebrate this year is that – at SGI and elsewhere – we finally are developing the muscles, the moves and the marathon mentality to holdup our own side of the perpetual contest between sunshine and secrecy.

Some in the news business think it compromises our objectivity as journalists to set ourselves up as players on matters of public policy even in a cause as just and as close to our hearts as open government.

I respect the high-minded intentions behind this view, but I strongly disagree.

When a matter of public policy poses a straight-up choice between the public's rights of access to its government and a government effort to infringe or even narrow those rights, journalists cannot pretend to be disinterested observers.

Journalists openly and routinely badger executive agencies and the courts for information and access we think the Constitution says the public is supposed to have.

Taking our case to the legislative branch is, in principle, no different. It is all newsgathering by other means.

Getting down in the legislative trenches may not suit everybody's style. But at a minimum the leaders of every news organization should consider being whole-hearted, full-throated participants in Sunshine Week.

The American Society of Newspaper editors certainly has shown us how to connect what we do with the people's efforts at self-government. In 2003, they began organizing an on-going, pro-active approach to Freedom of Information initiatives, which led to these Sunshine weeks.

For one week every year, we commit ourselves to doing what we're always telling ourselves we don't do nearly enough – explaining to our audiences why a free press in an open society matters to them.

Your name and your voice are needed. Pitch in and help. As Clarence Darrow once said, “You can only protect your liberties in this world by protecting the other man's freedom. You can only be free if I am free.”

Andy Alexander, Cox Washington bureau chief and ASNE Sunshine week leader, reminds us: “Sunshine Week's rapid expansion has given it real momentum. It's now on the verge of becoming an enduring national event. But if it stagnates, it could easily die –along with the potential gains being sought by those who believe in open government.”

The brightest rays from Sunshine Weeks have spotlighted countless efforts by citizens to hold their governments accountable. By reporting on their efforts, we have revealed for millions important lessons in fighting city halls, state houses and, yes, even Washington.

By fighting the good fight, we have boosted the chances of state organizations to win victories as well. Two of the states with the worst reputations for open government – Louisiana and Pennsylvania – have seen important reforms passed.

And that brings me to what I believe is the biggest issue facing those who believe in strengthening democracy through public scrutiny. Media, of course, are undergoing massive change from new technologies, and the question media leaders are asked frequently is, are we changing fast enough?

Whether talking about new technologies or sunshine, our answer is the same. We must do more. We must do more because the entrenched powers have become far more determined to avoid public scrutiny when it matters most.

A quadrennial election year is the perfect time to renew and strengthen our commitment.

One of the most harmful developments of recent years was the notorious Ashcroft memorandum that assured agencies that the Justice Department would back any plausible case for keeping any secret.

This action reversed the policy of the previous attorney general that all government information should be disclosed unless it can be shown that real harm would be the likely result.

That policy was the correct one, the one most consistent with democratic principles and the law. Yet, two subsequent attorneys general have refused to restore it.

This is the moment to make it clear to all the presidential candidates how important a reversal of the Ashcroft directive is to us and to the people.

We need to ask the candidates – at every opportunity until we have a clear answer – whether they are willing to appoint an attorney general willing to follow the spirit as well as the letter of the law that protects the people's right to know what their government is doing.

Secrecy is one of the handiest tools for government that wants to be accountable only to itself regardless of the spirit of any law.

At AP, we're reminded of that truth daily, as we struggle with the case of our photographer, Bilal Hussein. Nearly two years ago Bilal was arrested by U.S. forces in Iraq, and he has been a prisoner ever since.

Our military says he is a terrorist who infiltrated AP's ranks. To say the least, we see things very differently.

Bilal is one of at least a dozen Iraqi photographers whose coverage of the most dangerous scenes of war and suffering in regions where insurgents are active has been interrupted or stopped altogether by U.S. military arrests and detentions.

It is impossible not to conclude that the words and pictures these journalists produced were considered unhelpful to the war effort, and that their arrests have served a broader strategy of information control.

Ironically, the throttling of visual news coverage from combat regions has had unintended consequences.

By removing all the photographers in Anbar province, there was no one there to document "the good news" that resulted from the surge, including the everyday activities of citizens living normally.

And we now know that the military's effort to turn Vietnam on its ear – control coverage from the battlefield – is being implemented beyond Iraq. Most recently, Afghanistan became another battlefield where a journalist – this time a cameraman from Canadian Television – has been arrested and held without charges.

If the current mindset had held sway during World War II, the Marine Corps Memorial cross the river would look very different. There would have been no Joe Rosenthal picture from Iwo Jima.

Please consider what would have been lost from our national story had not AP photographers trudged and frequently suffered along side troops in battles from the Civil War to Iraq. AP's Chuck Zoeller has compiled a selection of images of war photography from AP's archives. Several images near the end were taken by Bilal Hussein. (Pause for photo wheel.)

As you have been reminded, war is beyond hell. Those who serve and sacrifice deserve that their story be told. And all of us are owed the truth on how the military and its civilian leadership are faring on what often is a government's most fateful policy decision: conducting a war.

So the damaging fallout from Bilal's case is far more serious than the detention of one more Iraqi, among nearly 30,000 being held.

It is a public display of disrespect for the rule of law – disrespect before a people to whom we pledge to deliver the fruits of freedom and justice for all.

Bilal spent 19 months in prison without any due process worthy of the name before his case finally was referred to the Iraqi criminal courts.

And even now, six months further along, Bilal has yet to see the evidence against him. Neither he nor his attorneys have been allowed to examine documents or cross examine witnesses. In fact, Bilal has not even been told the charges against him.

The military has never offered evidence of crime that would survive careful scrutiny by an impartial court. Whether there will be any such scrutiny remains in doubt.

What we are learning is that the effort to thwart the First Amendment requires a full-scale assault on most of the rest of the Constitution as well.

Bilal's captors have done their best – in large ways and small – to see that there won't be justice – either the kind the U.S. constitution supposedly guarantees or that provided by the U.N. charter.

The military has released thousands of Iraqi detainees, many of whom previously had taken up arms against U.S. interests in Iraq. No one has ever alleged that Bilal was a threat for anything more than carrying a camera.

This case has never been about Bilal Hussein. It is a clash between the people and their access to information. The military took some time to interpret the lessons of Vietnam and develop policies to counter outcomes it deemed not in its best interests. We in the press have taken too long to learn the lessons of Iraq.

As we celebrate Sunshine Week, Bilal's story is a grim and timely illustration of a basic fact of life. Where the powers that be can decide for themselves what is "freedom of speech, or of the press" . . . they can and will start suiting themselves about the meaning of "unreasonable searches and seizures" . . . and of "a speedy and public trial by an impartial jury."

The results will not be what the founding fathers had in mind when those life-giving phrases were written. American Presidents throughout my lifetime and long before have often said it is best to confront and defeat threats to freedom overseas before they can reach our own shores.

As Bilal Hussein and thousands of others await justice in foreign prisons . . . we whose job it is to keep information from becoming a prisoner of policy and convenience should consider this advice . . . and, as the lawyers like to say, govern ourselves accordingly.

One of the best things we can do for our country is to make the sun shine this week and every week not for ourselves but for the cause of free people everywhere.

Thank you very much.

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