



The NEFAC Report

New England's monthly right-to-know dispatch

May 2011

Prepared by the [New England First Amendment Coalition](#) in partnership with Northeastern University

The monthly *NEFAC Report* monitors print and online coverage of public access issues in the six-state region.

NEFAC hosts the **National Freedom of Information Coalition summit** in Providence, RI, on May 20-21. Visit our [Website](#) for program details and registration.

Video of pensioned firefighter lifting brings call for review

PROVIDENCE - Providence Mayor Angel Taveras said the undercover Target 12 video of a disabled firefighter weightlifting is "outrageous" and is calling for an independent doctor to review the disability pensions of hundreds of Providence retirees.

Mayor Taveras said he fully supports Public Safety Commissioner Steven Pare's call to open a criminal investigation in the Sauro case.

"I think it's important these things be brought to the light of day and that people face the consequences," Taveras said during a taping of Newsmakers. "We need to make sure the people out on disability are in fact disabled."

Taveras was reacting to Target 12 undercover video of retired firefighter John Sauro pumping iron at a local gym, yet collecting a tax-free accidental disability pension for being hurt on the job.

Public records show Sauro collects \$3,800 a month for his disability pension and another \$1,800 in healthcare benefits. He retired in 2000 after suffering a right shoulder injury. [Full story, video](#)

- *Tim White, WPRI-TV, Providence*

5/13/11

Promise of transparency still needs work in VT

The Legislature and Gov. Peter Shumlin made a start toward moving Vermont toward a state with a government more accessible to its people with the passage of the open records legislation this session.

It's been too long since the Legislature focused on opening government to the people rather than closing off access. Open government advocates saw the emergence this session of allies in Gov. Peter Shumlin and Secretary of State Jim Condos, who was a persistent voice for transparency in testimony before lawmakers and in public statements.

Shumlin and Condos must continue to speak out forcefully, and their message must be heard.

H.73 is a start that commits the administration to more work, going through the more than 260 exemptions to Vermont's open government laws to eliminate unwarranted impediments to transparency and accountability. [Read more](#)

- *The Burlington (Vt.) Free Press*

5/13/11

VT town officials wary of open records law improvements

MONTPELIER, Vt. - New changes to Vermont's public records law are being hailed as big improvements in government transparency, but not everyone is cheering. Town officials remain leery about the demands they'll face as a result.

A bill passed last week by the Legislature and awaiting Gov. Peter Shumlin's signature calls for judges to award attorney's fees to people and organizations that effectively challenge public records request denials.

The measure contains a so-called "escape clause" that would exempt the public agency found liable for the fees if they agree to release the records in the early stages of the court action.

Under existing law, judges had the power to order reimbursement of plaintiff's fees but weren't required to order that reimbursement. Supporters of the change said that absent any potential fiscal penalty, public agencies had no incentive - in many cases - to make public records available upon request. [Read more](#)

- *John Curran, The Associated Press*

5/8/11

Bin Laden death photos: better seen or unseen?

Dershowitz: photos should be released

In an op-ed published in The Huffington Post on May 5, Harvard Law School professor Alan M. Dershowitz assessed the decision made by the Obama administration not to release photographs of Osama bin Laden's dead body for public scrutiny.

According to Dershowitz, the decision to withhold the photographs was "only the last in a series of terrible mistakes" the president made following the operation. Dershowitz asserts: "bin Laden's body should have been preserved as long as necessary to gather all relevant evidence, notwithstanding the requirements of Sharia Law. When a Muslim or a Jew is the victim of a homicide in the United States, religious considerations do not trump civil requirements. ..."

Dershowitz also debated the issue with New York Times writer Nicholas Kristof and Colonel Morris David, former chief prosecutor at Guantanamo, on CNN's Piers Tonight. [View video](#)

- *Harvard Law School*

5/9/11

What's the point? Al-Qaeda admits he's dead

Al Qaeda's admission Friday of Osama bin Laden's death renders moot the only compelling reason for quick release of photographs of his bloody corpse.

The United States and Al Qaeda agree the world's most wanted terrorist is dead. There is no conspiracy to disprove. No further evidence is needed.

Those pressing hardest for disclosure argued the Obama administration needed to prove beyond a shadow of a doubt that bin Laden died at the hands of Navy SEALs in his Pakistan bunker hideout. Growing international speculation the attack had been faked necessitated a response from the administration. Whether release of the photos would make a difference is open to debate. [Read more](#)

- *The Telegraph, Nashua, N.H.*

5/9/11

Good taste and judgment say no

As a news organization and dedicated "watchdog" on government, we relentlessly insist on full disclosure of public information. We believe, adamantly, in government transparency. We are committed to defending, vociferously and stridently if need be, the public's right to know.

But there are occasions, rare occasions, when something comes along that we just don't need to know -- or, in this case, just don't need to see.

And that is our view when it comes to the photographs of Osama bin Laden's dead body.

President Obama was under considerable pressure from a variety of sources, including the news media, to release the pictures taken of bin Laden after the al-Qaida terrorist leader was killed in a U.S. raid on his hideout in Pakistan this week. By resisting the pressure and refusing to release the photos for public viewing, the president demonstrated courage, impeccable judgment and just plain good taste.

What purpose would be served by showing those pictures to the world? [Read more](#)

No, there are more battles to fight

It would be too much to expect that President Obama's successful elimination of Osama bin Laden would lead to a cease-fire in the political firestorm that seems to be a permanent blight on our national landscape.

After a day or two of celebrations -- with the inevitable, jingoistic chants of "USA! USA!" -- sniping against the administration resumed with full force. It didn't help that some of the information about the Navy SEALs' raid on bin Laden's lair, where he hid in plain sight of the Pakistani military, turned out to be incomplete or downright inaccurate.

Legitimate questions were raised about the level of armed resistance encountered by the commandos when they swooped down on the fortified compound in Abbottabad. Two trusted couriers -- the terrorist leader's sole links to the outside world -- were killed by the SEALs along with two others in the compound. Bin Laden's three wives were spared, though one was shot in the leg when she tried to intervene and help the world's most-wanted criminal. [Read more](#)

- *Clarence Fanto, The Berkshire Eagle, Pittsfield, Mass.*

5/6/11

Obama made the right call

There was a time when the victor in battle would impale the severed head of a vanquished enemy on a pike, as a trophy and a warning. Times change. President Barack Obama could have done the modern equivalent of the head on the pike by releasing photos of the body of Osama bin Laden with fatal gunshot wounds to his face. The president chose not to, and made the proper decision.

Releasing the gruesome photos would not have advanced our national interests. Conspiracists and copycat fanatics who think Mr. bin Laden still lives simply wouldn't believe the pictures were real. Releasing the photos could incite anti-American unrest in the Muslim world, at a time when pro-democracy uprisings across the Arab world are rejecting the al-Qaeda ideology of violence. The release of the photos could put U.S. personnel in more danger, as the idiotic burning of the Quran did earlier this year. [Read more](#)

- *Hartford Courant*

5/6/11

Close calls go to openness, release the photos

President Obama was right when he said, in deciding against releasing pictures of Osama bin Laden's body, that "we don't trot this stuff out as trophies - that's not who we are." He's probably also right that releasing the photos wouldn't satisfy every conspiracy theorist out there. But he should have released the pictures anyway.

Even in a situation like this one, with a reasonable degree of concern that the bloody photos would rile up some of bin Laden's followers, the government shouldn't regard secrecy as its default position: Close calls should go in favor of openness.

If national-security secrets were revealed in the photos, the equation would be different. But that's not the case with a single image of the terrorist leader's dead body. In this case, the risk of stirring up Islamist sentiments if the photos are released is probably about equal to that of dire mythologies taking hold in the absence of any photographic evidence. Both are outweighed by the benefit of maintaining a free flow of information. The raid was done in the name of the American people; the American people should be able to see the results. [Read more](#)

- *The Boston Globe*

5/5/11

Head off the conspiracy theorists, release photos

As of this writing, the White House has not decided whether to release photos of Osama bin Laden's corpse. The President likes to take his time making important decisions, and this is an important one. It is not a hard one, though. A photo should be released.

We live in a cynical and skeptical age. Trust in government is low. A Pew Research Center poll earlier this year found that 65 percent of Americans said they trusted the federal government to do the right thing only some of the time. A Gallup poll last year put the figure at 75 percent.

Until the President released his birth certificate last week, a quarter of Americans said they thought he might have been born in another country. In 2006, an Ohio State University/Scripps Howard poll found that more than half of Democrats thought President Bush was involved in the Sept. 11, 2001, terrorist attacks.

With so many Americans trusting only their own eyes, releasing a photo of bin Laden's body would put to rest some of the conspiracy theories. The nuts will still rant, but distrust in government extends beyond the tin-foil-hat crowd. [Read more](#)

- New Hampshire Union Leader, Manchester, N.H.

5/4/11

"Arsenic and Old Lace" files center stage in CT

Call it the case of the missing files.

More than 80 years after Connecticut's most notorious suspected female serial killer was committed to a state hospital, her medical files have vanished without a trace. The search for the records of Amy Archer Gilligan - who inspired the play and film "Arsenic and Old Lace" - has led to a freedom of information battle involving a journalist, the Connecticut Valley Hospital and state Freedom of Information Commission.

The case also has two state entities asking for the help of the Attorney General's Office - the hospital to dismiss a freedom of information complaint and the state librarian seeking advice on whether he should pursue what happened to the missing records that were in the hospital's care.

Ron Robillard, a journalist for 39 years, started seeking the medical records of Gilligan and related administrative files last September for a book he is writing. Gilligan was transferred to the state asylum for a "remedial stay" in 1924 after she pleaded guilty in 1919 to one of more than two dozen murders she was suspected of committing at a home for the aged she operated in Windsor. She died at what is now Connecticut Valley Hospital at age 89 in 1962, according to an obituary at the time. [Read more](#)

- Marie P. Grady, Connecticut Law Tribune

5/9/11

CT probing deleted emails on city parking contract

NEW HAVEN, Conn. - The state office of the public records administrator is investigating a complaint that alleges Alderman Marcus Paca violated record retention laws when he deleted emails related to the parking meter monetization proposal.

The complaint was made Tuesday by resident Jeffrey Kerekes via email to Public Records Administrator LeAnn Power, who confirmed Friday her office is looking into the matter.

Paca, D-24, is one of a small group of aldermen supporting a controversial plan to lease the city's parking meters to an out-of-state company for a one-time cash infusion of \$50 million. The city would be on the hook for \$111 million in lease payments to Gates Group Capital Partners of Ohio over the life of the 25-year contract.

Paca said earlier this week that he deleted several emails between himself and Steve Mednick, a lawyer representing Gates.

The Register had asked all aldermen in a Freedom of Information Act request to turn over all electronic correspondence with Gates. [Read more](#)

- New Haven (Conn.) Register

5/8/11

Deals to end Phoebe Prince bullying case complex

HADLEY, Mass. - Although the Northwestern District Attorney's Office has now reached resolutions with all six defendants in the Phoebe Prince bullying case, the public might need a scorecard to sort out all the legal implications of three of the four deals struck Thursday.

Sharon Velazquez, 17, Ashley Longe, 18, and Flannery Mullins, 18, were all charged as juveniles in the case because they were under the age of 17 at the time of the alleged crimes. As such, their cases would ordinarily have been shielded from public view.

However, former District Attorney Elizabeth D. Scheibel also charged the three as youthful offenders, a designation that opens the cases to public scrutiny. When the juvenile and youthful offender charges were joined, everything was thrown open. [Read more](#)

- *Fred Contrada, The Republican, Springfield, Mass.*

5/6/11

ME records bill enjoys bipartisan support in Augusta

AUGUSTA - The public could get greater access to government records if a bill before the Legislature's Judiciary Committee becomes law.

LD 1465 has bipartisan support in the Statehouse - and is opposed by a coalition of government officials and agencies.

The legislation was drafted by a pair of strange bedfellows: the Maine Heritage Policy Center and Maine Civil Liberties Union. It is sponsored by Sen. Richard Rosen, R-Bucksport, and would amend Maine's Freedom of Access Act, which governs the way government agencies provide access to public documents.

It is co-sponsored by 30 senators and representatives on both sides of the aisle, including Sen. Justin Alford, D-Portland, Rep. John Hinck, D-Portland, Rep. Heather Sirocki, R-Scarborough, Rep. Meredith Strang Burgess, R-Cumberland and Rep. Kimberly Olsen, R-Phippsburg.

The amendment would require government officials to make public records immediately available upon request, and give the public the right to request documents by electronic transfer and in a specific format, such as digital copies of emails or Microsoft Excel spreadsheet documents, without delays caused by printing or transcribing. [Read more](#)

- *Emily Parkhurst, The Forecaster, Falmouth, Maine*

5/3/11

MA ruling on booking photos ensures inconsistency

NORTHAMPTON, Mass. - The inconsistent ways in which police departments release or withhold booking photos are likely to continue in the wake of a ruling by the state's public records chief.

In an April 22 decision, Supervisor of Records Alan N. Cote concludes that the Northampton Police Department has discretion to withhold mug shots under the protection of the Criminal Offender Records Information Law.

The ruling has irked public records advocates and buttressed the department's long-standing belief that mug shots are protected information that can be withheld from public view.

"It reaffirms our position, and we will continue to do it," Northampton Police Chief Russell P. Sienkiewicz said this week. [Read more](#)

- *Dan Crowley, Daily Hampshire Gazette, Northampton, Mass*

4/29/11

VT locals need laws for accountability on openness

If lawmakers need a reason why they must toughen the state's open meetings law and make sure it applies at every level of government, they need look no further than Waterbury.

In early April, village officials held a meeting even after they realized they had failed to properly notify the public in advance, and then failed to take minutes of the proceedings. Both are required by Vermont's open meeting law.

While the violations are misdemeanors carrying a fine of up to \$500 a person, prevailing practice says that prosecutors are unlikely to bring charges. That means the village officials are unlikely to face any

consequences for knowingly violating the open meeting law.

As it stands, local government officials can ignore open government laws confident they are unlikely to suffer any real consequences. [Read more](#)

- *The Burlington Free Press*

4/28/11

CT town selectman complains FOI request is harassment

SEYMOUR, Conn. - Mark Thompson - the former Board of Finance chairman who abruptly stepped down in January - said he is outraged because the town's Finance Director has filed a Freedom of Information complaint against him.

"I believe it is wrong for staff to FOI request any member of a board or commission in the town, particularly that board which has an oversight over that department," Thompson said to the Board of Selectmen Tuesday.

Seymour Finance Director Doug Thomas filed a complaint against Thompson with the state Freedom of Information Commission after Thompson declined to hand over a few emails related to Seymour's annual audit.

Thompson asked the Selectmen Tuesday for guidance on whether he should release e-mails. The Selectmen said Thompson should consult with a town attorney, because the FOI complaint was against him in his former capacity as a town volunteer. [Read more, view video](#)

- *Jodie Modzer, Valley Independent Sentinel, Ansonia, Conn.*

4/22/11

Budget cuts threaten open information initiative

Data.gov, a flagship of the U.S. government's transparency efforts, looks to be on the chopping block as budget cuts reduce the Electronic Government Fund from \$35 million to \$8 million. It isn't yet clear how data.gov will be affected, but it could be shut down or severely limited.

When President Barack Obama took office, he started a major initiative to open up government data to citizens. He appointed Vivek Kundra as the United States' first chief information officer and launched a flurry of Internet-based open-data efforts that were imitated by several cities.

That now seems a distant memory as politicians cast about for programs that can be cut to reduce the federal budget deficit. But data experts say the loss of data.gov could stifle a growing movement that is trying to help citizens get more benefit from data they are already paying for. [Read more](#)

- *Technology Review, MIT*

4/19/11

NEFAC plays host to the National Freedom of Information Coalition's 2011 conference at the Biltmore in Providence, R.I., May 20-21.

Comments welcome.

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