

California First Amendment Coalition
10th Annual Open Government Assembly
California State University, Fullerton—Titan Student Union

Friday, October 14, 2005

12:30 to 2 p.m.

Registration Atrium

1:15 to 3:15 p.m.

Workshop: **Fundamentals of California access law**

A two-hour “super course” on state access laws and practices. Topics include the Brown Act and other open-meeting laws, as well as the California Public Records Act and rules governing access to court records. The discussion also will cover recent court cases, attorney general opinions and state administrative actions. Attention will also be given to Proposition 59, the November 2004 state ballot initiative establishing a constitutional right of access. (2 HOURS MCLE CREDIT)

Moderator **Maureen S. Rubin**, CSU NORTHRIDGE
Panelists **James M. Chadwick**, DLA PIPER RUDNICK GRAY CARY LLP
William Nottingham, LOS ANGELES TIMES
Kelli L. Sager, DAVIS WRIGHT TREMAINE LLP
Dennis A. Winston, MOSKOWITZ, BRESTOFF, WINSTON & BLINDERMAN LLP

3:30 to 4:45 p.m.

Panel discussion: **Great news stories found in government databases**

This panel, primarily for working journalists and editors, will feature reporters who have worked on groundbreaking articles using computer-assisted research of databases obtained from state agencies through the California Public Records Act. Work to be highlighted includes stories about wasteful government spending, excessive government overtime pay, quality of care at hospitals and performance of teachers in local public schools. The panel also will explore the legalities of requesting copies of government databases, including how much agencies may charge to recover the cost of furnished data, and whether officials may resist database requests by characterizing them as “fishing expeditions.” (1.25 HOURS MCLE CREDIT)

Moderator **Dennis Foley**, THE ORANGE COUNTY REGISTER
Panelists **John Hill**, SACRAMENTO BEE
Justin Pritchard, ASSOCIATED PRESS
Susan E. Seager, DAVIS WRIGHT TREMAINE LLP
Natalya Shulyakovskaya, THE ORANGE COUNTY REGISTER

Panel discussion: **Does your community need a “sunshine ordinance”?**

Panelists will discuss measures adopted in such cities as Oakland, San Francisco and Riverside to supplement state open meeting and public records laws. “Sunshine Ordinances” range from elaborately specific safeguards (for example, in San Francisco) to short and simple statements of principles. This panel will explore whether sunshine ordinances add significantly to the rights already secured by the Brown Act and the Public Records Act; the types of ordinances likely to be most effective; political strategies for enacting these measures; and how to avoid various pitfalls. (1.25 HOURS MCLE CREDIT)

Moderator **Barbara S. Blinderman**, MOSKOWITZ, BRESTOFF, WINSTON & BLINDERMAN LLP
Panelists **Bruce Brugmann**, THE SAN FRANCISCO BAY GUARDIAN
Joshua Koltun, DLA PIPER RUDNICK GRAY CARY LLP
Eric Haley, COUNTY OF RIVERSIDE
Mark Morodomi, CITY OF OAKLAND

5 to 5:50 p.m.

Address by **Dan Gillmor** (1 HOUR MCLE CREDIT) Titan Theatre

6 p.m.

Reception Garden Café

DAN GILLMOR

A pioneer of journalism on and about the Internet, Gillmor was a technology columnist at the San Jose Mercury News from 1994 to 2004. He is founder of Grassroots Media Inc., which aims to expand the reach of grassroots journalism, and author of *We the Media: Grassroots Journalism by the People*, a 2004 book that is widely credited as the first comprehensive look at how the collision of technology and journalism is transforming the media landscape.

Saturday, October 15, 2005

8:30 to 10:30 a.m.

Registration Atrium

9 to 10:15 a.m.

Panel discussion: **Journos vs. Jacko: Are the courts still open?**

The rules say court proceedings and records must be open to the public and press. The reality can be very different, particularly in sensational cases. This panel will look at that gap and address the special problems created by celebrity trials, using the recent criminal prosecution of Michael Jackson as a model. Participants include the lawyer who represented media in the Jackson case, a reporter who has covered many celebrated trials for the AP, and Orange County’s district attorney. Among issues to be addressed: Does the intensity of public interest in a celebrity case justify—in order to protect the celebrity’s right to a fair trial—restrictions on access that would not be acceptable in routine cases? (1.25 HOURS MCLE CREDIT)

Moderator **Harold W. Fuson Jr.**, THE COPLEY PRESS INC.
Panelists **Theodore J. Boutrous Jr.**, GIBSON, DUNN & CRUTCHER LLP
Linda Deutsch, ASSOCIATED PRESS
Tony Rackaukas, DISTRICT ATTORNEY OF ORANGE COUNTY

Panel discussion: **Protecting confidential sources**

Panelists will discuss rulings in both criminal and civil cases that have put reporters under pressure to reveal confidential sources, including the Judith Miller case. Participants include editors of the SF Chronicle and Orange County Register, a federal prosecutor involved in the BALCO steroid scandal and a lawyer who represented bloggers subpoenaed by Apple Computer. Discussion will include contempt judgments against reporters as witnesses, prospects for a federal “shield law” and whether the case for source-protection is undermined by use of “anonymous” sources. (1.25 HOURS MCLE CREDIT)

Moderator **Peter Scheer**, CALIFORNIA FIRST AMENDMENT COALITION
 Panelists **Phil Bronstein**, SAN FRANCISCO CHRONICLE
Ken Brusic, THE ORANGE COUNTY REGISTER
Karlene Goller, LOS ANGELES TIMES
Brian Hershman, U.S. DEPARTMENT OF JUSTICE
Kurt Opsahl, ELECTRONIC FRONTIER FOUNDATION

10:30 to 11:45 a.m.

Panel discussion: **Blogging: a new journalistic form, or barbarians at the gates?**

This panel, which will include leading practitioners of the blog, will consider blogging’s considerable power to influence the mainstream political agenda—propelling, for example, Howard Dean’s ascent and Dan Rather’s decline. Panelists will debate whether blogging is the paradigm of Madison’s “marketplace of ideas,” or a chaotic street bazaar in which truth is drowned out by hawkers of rumor and invective. Other issues to be considered: is blogging a “fifth estate,” necessary to hold the mainstream media accountable? Panelists also will discuss blogging’s relation to the “new journalism” of an earlier era and ideas for incorporating aspects of blogging into newspapers and other traditional news formats. (1.25 HOURS MCLE CREDIT)

Moderator **Kevin S. Bankston**, ELECTRONIC FRONTIER FOUNDATION
 Panelists **Dan Gillmor**, AUTHOR & BLOGGER
Mack Reed, LAVOICE.ORG
Kevin Roderick, LAOBSERVED.COM

Panel discussion: **What’s new in access law?**

A look at changes to access laws at the federal and state levels, including litigation and legislation to capitalize on Proposition 59, which places open government principles in the state constitution. A panel of experts will highlight, explain and critique the latest developments. These include legislation to revise the federal Freedom of Information Act and to create a federal shield law. At the state level, recent developments include both litigation and legislation to capitalize on Proposition 59. Passed overwhelmingly by voters in November 2004, the measure places open-government principles in the state constitution. But does it have any real bite? (1.25 HOURS MCLE CREDIT)

Moderator **Dr. Rick Pullen**, CSU FULLERTON
 Panelists **Scott Armstrong**, AUTHOR AND FOUNDER, NATIONAL SECURITY ARCHIVE
Thomas W. Newton, CALIFORNIA NEWSPAPER PUBLISHERS ASSOCIATION
Karl Olson, LEVY, RAM & OLSON LLP
Thomas Peele, CONTRA COSTA TIMES

12 to 1:30 p.m.

Lunch and keynote address by **Floyd Abrams** (0.75 HOURS MCLE CREDIT). Pavilion A

FLOYD ABRAMS

The country’s preeminent First Amendment lawyer for nearly three decades, Floyd Abrams represented Judith Miller and the New York Times in recent efforts to protect confidential sources. Abrams is a partner in the New York law firm of Cahill Gordon & Reindel and is the William J. Brennan Jr. Visiting Professor of First Amendment Law at the Columbia Graduate School of Journalism. He has argued frequently before the U.S. Supreme Court in significant First Amendment cases and was co-counsel to The New York Times in the Pentagon Papers case.

He has represented the Times, ABC, NBC, CBS, CNN, Time magazine, Business Week, The Nation, Reader’s Digest and other media clients. In 2003, he represented Sen. Mitch McConnell, R-Ky., and the National Association of Broadcasters in a First Amendment-rooted challenge to the McCain-Feingold campaign-finance legislation.

Abrams has received many awards, including the William J. Brennan Jr. Award for outstanding contributions to public discourse and the Learned Hand Award of the American Jewish Committee. He is the author of the recently published book *Speaking Freely: Trials of the First Amendment* (Viking, 2005).

Panelists and Moderators

Scott Armstrong, a former investigative reporter for the Washington Post, is founder of the National Security Archive and was co-author, with Bob Woodward, of *The Brethren*, a best-selling investigative report on the U.S. Supreme Court. Armstrong is currently working on creating channels of communication between U.S. intelligence agencies and journalists who use classified information in their reporting.

Kevin S. Bankston is a staff attorney at the Electronic Frontier Foundation who focuses on the effect of post-9/11 anti-terrorism laws and surveillance initiatives on online privacy and free expression. Previously he litigated Internet-related free speech cases for the ACLU in New York City. He is a 2001 USC Law School graduate.

Barbara S. Blinderman has successfully litigated against local governments for over 28 years. She was counsel for petitioner in the successful prosecution of *Green v. City of Los Angeles*, the secret pay raise case which led to the comprehensive revision of the Brown Act in 1986. She was the first recipient of the California First Amendment Coalition Beacon Award for Advocacy.

Gary Bostwick is a partner at Sheppard, Mullin, Richter & Hampton, LLP in Los Angeles. He practices constitutional law, with special expertise in the First Amendment. He represented Jeffrey MacDonald in *MacDonald v. McGinniss* about the book *Fatal Vision*, and he successfully defended Janet Malcolm in two trials involving standards for journalists' conduct in quoting their subjects.

Theodore J. Boutrous Jr. is a partner at Gibson, Dunn & Crutcher in Los Angeles. A 1987 graduate of the University of San Diego School of Law, his areas of expertise include media law; constitutional law; libel, slander and defamation. He represented media organizations in the 2005 trial of Michael Jackson.

Phil Bronstein is executive vice president and editor of the San Francisco Chronicle. Previously he was executive editor of the San Francisco Examiner, where he began as a reporter 20 years ago. At the Examiner, Bronstein specialized in investigative projects and was a foreign correspondent. He has won awards for his coverage of the Philippines and was a 1986 Pulitzer Prize finalist.

Bruce Brugmann is the founder, editor and publisher of the San Francisco Bay Guardian and a moving force in the drive that resulted in the San Francisco Sunshine Initiative. He has been the recipient of numerous awards, including The Bill Farr Freedom of Information Award and the national Freedom of Information Award from the Society of Professional Journalists.

Ken Brusic is senior vice president of content for Freedom Metro Information and editor of The Orange County Register. In these roles, Brusic is responsible for all news and information produced in The Register and other Freedom Orange County Information products, as well as for the coordination of shared content among Freedom businesses in Orange County, Colorado Springs and Mesa, Arizona.

Thomas R. Burke, a partner in the San Francisco office of Davis Wright Tremaine, is a specialist in media and Internet law. He has successfully represented two Bay Area peace activists to compel the FBI and TSA to publicly release hundreds of records detailing the federal government's use of the "no fly" list to screen

airline passengers after 9/11.

James M. Chadwick is a partner at DLA Piper Rudnick Gray Cary with expertise in media law, media defense litigation, First Amendment and privacy law, and copyright and trademark law. His clients have included the San Jose Mercury News and Mother Jones magazine. He has received the James Madison Freedom of Information Award from the Society of Professional Journalists.

Linda Deutsch is a veteran Associated Press reporter based in Los Angeles who has covered countless high-stakes trials, including those of Michael Jackson, O.J. Simpson, Robert Blake, Patty Hearst and the four LAPD officers charged with beating Rodney King. AP named her a special correspondent — an honor rarely bestowed — in 1992.

Dennis Foley is a 35-year journalist who has held editing and reporting positions in Michigan and California. He mostly has reported and supervised coverage of government, politics and law. In his 18 years at The Orange County Register, he has been county government reporter, politics editor, ombudsman and currently coordinates training, reader networks, and accuracy, ethics and credibility efforts.

Harold W. Fuson Jr. is vice president and chief legal officer of The Copley Press Inc., which publishes the San Diego Union-Tribune and other newspapers. A law graduate of Cleveland State University, he is a director of the California Newspaper Publishers Assn. and author of *Telling It All: A Legal Guide to the Exercise of Free Speech*.

Karlene Goller is senior counsel/West Coast Media for the Tribune Company and vice president for legal affairs of the Los Angeles Times. She also has been the paper's newsroom counsel since 1993 and deputy general counsel since 1998.

Eric Haley is executive director of the Riverside County Transportation Commission and a prime mover in the successful campaign to include a "sunshine" provision in the Riverside City Charter. He also has worked for regional government associations and was an elected member of the Riverside City Council.

Jon Healey is an editorial writer at the LA Times, specializing in pieces about intellectual property, technology, energy policy and general business issues. Previously he was a business reporter at the Times covering the convergence of entertainment and technology.

Brian Hershman, deputy chief of the Public Corruption and Government Fraud Section of the U.S. Attorney's Office in Los Angeles, is lead prosecutor in the BALCO grand jury leak investigation. In private practice, as a lawyer with O'Neill, Lysaght & Sun in Santa Monica, he was on the defense team during the grand jury phase of the federal government's prosecution of Wen Ho Lee.

John Hill, a reporter for the Sacramento Bee, shared a 2004 Polk Award with colleague Dorothy Korber for a series of articles revealing how higher-ups in the California Highway Patrol, who were close to retirement, inflated pension benefits by making dubious claims of maladies. Their investigation has resulted in internal audits, legislation and a gubernatorial commitment to address the issue.

David Kohler is director of the Donald E. Biederman

National Entertainment and Media Law Institute at Southwestern University School of Law. He previously was senior vice president and general counsel at CNN. In more than 20 years of media law practice, he has represented a broad range of broadcast, cable and print media companies.

Joshua Koltun is a partner at DLA Piper Rudnick Gray Cary in San Francisco. His practice includes media, intellectual property and unfair competition. He has represented publishers, software companies, broadcasters, Internet sites and others. He is a graduate of Harvard University and Yale Law School.

Fred von Lohmann is a senior staff attorney with the Electronic Frontier Foundation, specializing in intellectual property matters. He has represented programmers, technology innovators, and individuals in a variety of copyright and trademark litigation. He is a graduate of Stanford Law School.

Mark Morodomi is Supervising Deputy for the Oakland City Attorney's Open Government Program. He worked for 10 years in Sacramento for the State of California's Fair Political Practices Commission, where he served as chief prosecutor investigating and prosecuting cases of political corruption. He is a graduate of Stanford University and NYU Law School.

Thomas W. Newton is general counsel and legislative advocate of the California Newspaper Publishers Association, overseeing legal and lobbying activity and acting as a spokesman for the state's newspaper industry. A graduate of McGeorge School of Law in Sacramento, he received CFAC's Bill Farr Award in 2004.

William Nottingham is a 20-year veteran of the Los Angeles Times, where he is one of two state government editors. Previously he was a reporter at the St. Petersburg Times, where he once spent weeks sifting through shredded documents illegally discarded by the Pinellas County Sheriff's Department. As a result, a court ordered the department to open its records for the first time.

Karl Olson, a partner in the San Francisco law firm of Levy, Ram & Olson, specializes in First Amendment and media law matters and has represented many of the state's largest newspapers, including the San Francisco Chronicle and Los Angeles Times, in libel cases, Public Records Act matters and obtaining access to court proceedings, including the Scott Peterson trial.

Kurt Opsahl is a staff attorney with the Electronic Frontier Foundation focusing on civil liberties, free speech and privacy law. He previously represented technology clients with respect to intellectual property, privacy and other online liability matters. For his work responding to government subpoenas, Opsahl is proud to have been called a "rabid dog" by the Department of Justice.

Thomas Peele is a Contra Costa Times investigative reporter and writer of the monthly "Times Watchdog" column, which highlights open-government topics. He has won many awards for reporting on freedom-of-information issues.

Justin Pritchard is news editor in the Los Angeles bureau of The Associated Press. As a San Francisco-based reporter, he won a 2004 Polk Award for his investigative series entitled "Dying to Work," which examined the disproportionate on-the-job death rates among Mexican-born workers in the United States.

Rick Pullen has been the dean of the College of Communications at CSU Fullerton for 10 years. He received his Ph.D. in Communications from Southern Illinois University and is an expert in mass media law and ethics. He is a co-author of textbooks on national and California media law and is a director

for CFAC and a member of the Ethics Committee of the Society of Professional Journalists.

Tony Rackauckas is district attorney of Orange County, overseeing more than 200 lawyers who represent the state in all criminal and some civil cases. A graduate of Loyola Law School in Los Angeles, he was a prosecutor and a judge before winning election as DA in 1998. He was re-elected in 2002.

Mack Reed is an online editorial consultant at FactoidLabs.com and creator and publisher of the Los Angeles-based public-access newsblog LAVoice.org. Previously he built and ran websites for Cox Interactive and USC and spent 17 years in daily newspapers, including seven as a staff writer and columnist at the LA Times.

Kevin Roderick is an author and journalist who runs LAObserved.com, a website about Los Angeles media, politics and culture. Previously he spent 25 years as a staff writer and editor at the Los Angeles Times and was LA bureau chief for The Industry Standard magazine.

Maureen S. Rubin joined the faculty of CSU Northridge in 1984 as a professor of journalism where she teaches law, public relations and media ethics. Previously Rubin was director of public information for President Carter's Special Assistant for Consumer Affairs. She is a graduate of the Catholic University School of Law in Washington, D.C. and holds a master's degree in public relations from USC.

Kelli L. Sager is a partner in the Los Angeles office of Davis Wright Tremaine. She has 20 years of experience with media and entertainment law, including defamation, privacy, access, prior restraint, reporters' shield laws, copyright and trademark law. Her clients have included the New York Times Co., the Los Angeles Times, Paramount Pictures, Conde Nast, MTV and Warner Bros.

Peter Scheer is executive director of CFAC. A lawyer and journalist, he previously was editor of The Recorder, a daily legal newspaper in San Francisco, and publisher of Legal Times, a Washington, DC-based weekly on law and lobbying. He practiced law in Washington, DC, and was general counsel of the National Security Archive.

Susan E. Seager, an attorney in the Los Angeles office of Davis Wright Tremaine, represents newspapers, television, cable and radio in areas including media, entertainment and intellectual-property litigation. She teaches law at USC and was awarded the 2004 Freedom of Information Award by the LA chapter of the Society of Professional Journalists.

Natalya Shulyakovskaya is an investigative reporter and director of computer-assisted reporting at the Orange County Register. Recent projects produced stories documenting a rise in alcohol-related boating accidents, Caltrans' slow repair of dangerous roads and a lucrative arrangement in which community colleges counted high-school athletes as students.

Jennifer Urban directs the Intellectual Property Clinic at the USC Law School, which provides law students with hands-on experience representing the public interest in intellectual property and technology law. Previously she taught at UC Berkeley and practiced law in Silicon Valley.

Dennis A. Winston is a member of Moskowitz Brestoff Winston & Blinderman LLP, representing news organizations, elected representatives and private citizens in open-meeting, public records and First Amendment litigation. He received his undergraduate and law degree from USC.

Sponsors

Registration fees cover only a part of the cost of this Open Government Assembly. The California First Amendment Coalition thanks these generous sponsors, as well as Dr. Rick Pullen and the College of Communications at Cal State Fullerton, for making it possible.

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