

Public Affairs Bureau



Sheriff Hunter's Position Statement on Public Records Audit Story

A Nov. 22 story in the Naples Daily News accusing the Collier County Sheriff's Office of failing a secret public records request is misleading and one-sided.

As Paul Harvey would say, "Now for the rest of the story."

Citizen/Naples Daily News reporter Tara McLaughlin requested my most recent e-mail on the budget to Collier County Manager Jim Mudd. She stated that her request was made at 10:50 a.m. on Oct. 23 and our actual documentation demonstrates that the request was stamped in at 11:08 a.m. that date. We time stamp these for exactly this reason. This time stamp officially recognized the request as a public record request of the Agency. Ms. McLaughlin was informed that her grossly amended request taken by me personally later that same day at 1:35 p.m. was available for pickup at 2:27 p.m. the same day. This was only 52 minutes later and clearly a rapid response to her. I did not see this reported in the article.

I actually performed the search for the e-document because the document originally sought was specifically from me to the county manager. The request was later amended by Ms. McLaughlin to be for any e-mail from me to any county commissioner. This public record production was done in addition to regular duties of the sheriff but it is not our routine. Our public record response routine was interrupted due to the vagueness of the requested material. We now know the vagueness was intentional.

There is no Sheriff's Office policy that requires a person to file a written request; however, a written request in the person's own handwriting is obviously more desirable to avoid disputes that we were not responsive to the request. Written communication is also preferred to avoid miscommunication of what has been requested when the request involves multiple members of the Agency or must be communicated beyond

our records bureau. Another advantage is that the written request also becomes a public record of the Agency permitting us to consult the record if need be. We will write the request out for the person in the event they prefer not to do so.

The request was routed to me in an effort to expedite our reply inasmuch as the material requested would be readily available from my assigned desktop computer. First Amendment Foundation's Adria Harper's attempt to cast our efforts as intimidation or unnecessary meddling by the head of the agency who is ultimately responsible for public records (as the custodian) is what we have come to expect from the First Amendment Foundation. My unusual personal involvement with this uniquely difficult request was an effort to expedite the production, insure accuracy and make our reply most efficient in the public's best interests (not to expend excess staff time for something possibly readily available).

When I telephoned Ms. McLaughlin to report to her that I did not believe there was any such e-mail as she originally requested I got her voice mail that identified her as Tara McLaughlin. There was no search for her name or attempt to determine who she was; that information is irrelevant to any public record request and not our routine. It is also irrelevant to the article.

I did ask Ms. McLaughlin to try to narrow her unusual request so that I could be responsive on my first attempt and not have to make additional attempts to get the information that she wanted or perhaps suffer being characterized by her as non-responsive or evasive to her request. When she declared that her request would be fulfilled if I provided any such e-mail I complied with that vague request. The attempt to characterize my interest for specificity as intimidation, as contrary to law or imply some ulterior motive is despicable and itself contrary to ethical reporting. It is not impermissible to ask for specificity in a public record request. I now see that the set-up was for a no-win situation.

The First Amendment Foundation (FAF) takes a position that it represents the public's interest. By law local, state and federal government agencies have that heavy responsibility. News media have adopted this role as their own as an historical artifact. They are for-profit corporations. Readers will recall that the FAF is the group that demanded the autopsy photos of Dale Earnhardt for public disclosure. My position is that the experts conducting the autopsies of deceased private citizens are well prepared to determine cause of death without publishing photos to the public.

Ms. McLaughlin also did not report to her readers that I went beyond her request and provided more public records material than she requested in my effort to assist her. The document that we produced was not just the e-mail to any county commissioner but rather the entire e-mail thread. I did not see this extraordinary effort on the agency's part published anywhere in the article.

We have made tremendous progress in making public records available including the ability to order public records by e-mail. This is an effort on our part to make the process more convenient and open; not less so. I did not see any of this information in the article.

Ms. McLaughlin's report is misleading, incomplete, inaccurate, and intentionally spun to reflect us in the most negative light possible instead of as an agency that attempts to get it right on the first request by guiding people through the process. We will continue to ask questions of persons making the request both to reduce the number of searches required and to reduce the cost of the production. We cannot be accurate in our production if the person making the request does not know what they wish to have or, as in this case, are intentionally vague. People calling the agency for information are not always coherent, or they could be maliciously inaccurate giving us fictitious names and contact information, or worse, refuse to provide any contact information but make demands for large volume records production and never return, intending instead to cause us un-necessary work or to disrupt operations (we have learned that not everyone wants to see us succeed). This is a flaw in the law and something that deserves to be addressed. Perhaps these issues should have been part of the more complete article.

From January through November 2008 just at our Central Records Bureau, we responded to 45,273 telephone, walk-up, fax/mail, e-mail public and organizational record requests. We have very few if any complaints on these requests. I did not see any such attempt to portray this other side of the public records issue in the article.

Ms. McLaughlin's report that she spent 10 cents on the production is also wrong; she actually spent 15 cents, as provided by law and as documented by our receipt.

Ms. Harper of the First Amendment Foundation and the Daily News are not in a position to declare that we "failed in public records law compliance" as they have no such authority. That would be determined only in a court of law. This also is irresponsible journalism. Perhaps a better statement would have been that the

Sheriff's Office's reply to their unusual and intentionally vague public records request of Oct. 23 seems to be an anomaly to our usual practice and less responsive than the other agencies tested on this vague request. The reader may not be aware but we respond to the Daily News on a daily basis for public record requests and have not had a problem noted by the Daily News in many years. We have literally responded to the requests of the newspaper tens of thousands of times and I am aware of only a few complaints in my 20 years as sheriff. This does not suggest a problem.

In conclusion, we successfully respond to daily requests from the Daily News without complaint. This latest effort to audit us by some vague ruse is an obvious attempt to concoct a technicality and mislead the public into a belief that we are not responsive to public records requests. We respond to tens of thousands of such requests annually. The Daily News demonstrates an unethical approach in efforts such as this and the refusal to publish the whole story in every circumstance. This form of incomplete and intentionally misleading reporting is unscrupulous _ a word that should mean something more to journalists.

Don Hunter,

Sheriff