



AGENDA
SOCIETY OF PROFESSIONAL JOURNALISTS
BOARD OF DIRECTORS MEETING

DATE: APRIL 18, 2020
TIME: 3 P.M. EDT

JOIN VIA ZOOM -- [HTTPS://ZOOM.US/J/92975706706](https://zoom.us/j/92975706706)

(Meeting ID 929 7570 6706)

1. Call to order – Newberry
2. Roll call – Aguilar
 - Patricia Gallagher Newberry
 - Matt Hall
 - Rebecca Aguilar
 - Lauren Bartlett
 - Erica Carbajal
 - Tess Fox
 - Taylor Mirfendereski
 - Mike Reilley
 - Yvette Walker
 - Andy Schotz (parliamentarian)

Enter Executive Session

3. Awards selection – Sue Kopen Katcef
4. Legal matter – Shertzer
5. Contract matters
 - a. EIJ
 - b. Database
6. Personnel matters

Exit Executive Session

7. Minutes from Feb. 1, 2020, board meeting – Newberry

8. President’s report – Newberry

9. Executive director’s report – John Shertzer

10. EIJ20 report – Shertzer

11. Membership report – Shertzer

- a. Chapter Action Report
- b. Membership Report
- c. Summer 2019 Membership Drive
- d. Fall 2020 Membership Drive

12. Partnerships – Shertzer

13. Strategic Planning Task Force report – Hall

14. EIJ Sponsorship Task Force report – Nerissa Young

15. Finance Report – Shertzer and Jake Koenig

- a. 2020 Budget Approval
- b. 2018-19 Audit Discussion

16. Committee reports

- a. Awards and Honors Committee
- b. Diversity Committee
- c. Ethics Committee
- d. Freedom of Information Committee
- e. Journalism Education Committee
- f. Legal Defense Fund Committee
- g. Membership Committee
- h. Regional Coordinators Committee

17. Public Comment

18. Adjournment

MINUTES
SOCIETY OF PROFESSIONAL JOURNALISTS
BOARD OF DIRECTORS MEETING
VIA TELECONFERENCE AND VIDEO CONFERENCE
FEB. 1, 2020

DRAFT

MEETING CALLED TO ORDER

The public meeting was called to order at 12:01 p.m. EST. Those present were Patricia Gallagher Newberry, president; Matthew Hall, president-elect; Rebecca Aguilar, secretary-treasurer; Lauren Bartlett, director at-large; Tess Fox, director at-large; Taylor Mirfendereski, director at-large; Mike Reilley, director at-large. Directors At-Large Erica Carbajal and Yvette Walker joined later. Also present were Andy Schotz, parliamentarian; and staff members John Shertzner, executive director; Jake Koenig, controller; and Jennifer Royer, director of communications and marketing.

APPROVAL OF MINUTES

A motion was made by Bartlett to approve minutes from the October and November 2019 meetings. Hall seconded. Bartlett referred to an email she sent earlier with corrections on Pages 6 and 9 in the October minutes and Page 11 in the November minutes. Schotz added that he also sent some corrections via email, which included misspelling of names and that there are three new SDX Awards categories. He also asked if there were 300 candidates for the executive director position, adding that is what Talbott Talent told the board, but the board didn't see all the resumes. Hall said for consistency, on Page 9 of the October minutes, he should be referred to as Hall, not Matt. Vote to approve minutes with corrections passed.

PRESIDENT'S REPORT

Newberry referred to the report in the packet and mentioned she offered to pay the membership dues of young journalists who were interviewed recently in the New York Times.

EXECUTIVE DIRECTOR REPORT

Shertzner referred to his report in the board packet. Bartlett asked if he could update the board on the database issue. He said we are dealing with three different entities right now: the current provider, the one we want to investigate moving to and the one who we started to go with a year ago who feels we still have an agreement with. His goal is to clarify these issues by April's board meeting and will have more information to share then. He added that he has seen the limitations of the current system and it makes him want to move aggressively to a new system.

He updated the board on the Scripps Leadership Boot Camp in June, which will be for college members to attend and receive training and education on how to lead their newsrooms. There are also conversations happening with staff on developing training for chapter leaders and others within SPJ.

He has also been invited to a couple chapter meetings in April and is excited to attend those.

UPDATE OF STRATEGIC PLAN TASK FORCE

Newberry said Hall has done amazing work as chair of the task force, under the guidance of Victor Hernandez who was previous chair. The task force has met several times and conducted focus groups, surveys and collected information about what members believe SPJ does well, what it does poorly and what it should do moving forward.

Hall said the task force plans to have a 2- to 3-page report to give to the board at its April meeting. It will include five themes: membership, diversity, education and training (innovation), advocacy/lobbying/ethics/foi and financial growth and stability.

Bartlett suggested the board have a Zoom meeting in early July solely voted to the strategic plan to allow time for the board to give the task force suggestions and tweaks and give the task force time to make adjustments to the plan before EIJ20. She also voiced concerns about the groupings of the five themes and said she believes SPJ's greatest strength is also its greatest weakness: Trying to be everything to everybody. She said we should think about how many things we can reasonably achieve moving forward and how they fit with who we are and what we stand for. The goal after the April meeting is to have a document we agree on, she said.

Hall said the task force will bring something to the board, but staff will have to implement the plan, so staff's input and involvement will be necessary.

Bartlett said there's not a lot of time between now and April, and we should take more time if needed and possibly have another meeting in May.

UPDATE OF THE EIJ SPONSORSHIP TASK FORCE

Task Force Chair Nerissa Young gave an overview of the work that has been done and shared the policy the task force had developed. This task force also conducted a survey regarding what members and lapsed members think should be considered when considering EIJ sponsorships. They will put the policy out for member comment and vote at EIJ20. The task force thought SPJ's mission should be considered and sponsors should be in concert with SPJ's goals and mission.

Reilley said the policy is very broad and extends beyond EIJ.

Young said there was a lot of discussion about that among task force members and the thought was that sponsorships should be consistent on all fronts.

Reilley said he cannot support the policy as it is written because it rules out dozens and dozens of partners because people can misinterpret partnerships and we're walling ourselves off from potentially great partnerships.

Young pointed out that most of the policy was drafted from an ONA policy which was drafted from a previous SPJ policy.

Reilley said it can be misused as it is currently phrased.

The board discussed the survey questions and the low response to the survey. Hall said in general, younger members are probably more against taking sponsorship money than older members. Fox said she is probably in the minority and she has no problem with taking sponsorship money because it makes

it less costly for us to do conferences. Walker said taking money for good programming is not a bad thing. The perception is that sponsors have influence of the program, but that is not necessarily true. She added there must be a level of trust between members and those planning the conference and working with sponsors.

There was discussion about whether the board should suggest edits to the policy or have the task force come back with something else.

Young said it was a unanimous vote for the task force, so it would be very difficult for them to come up with something else because they all supported this policy.

Newberry said there are operating procedures in place for EIJ20 with partner RTDNA. Programming is being scheduled separately and SPJ has total control on its sponsorships. However, SPJ could say no to a sponsor and RTDNA could say yes, so a sponsor could still be at EIJ20 without SPJ's support. But there is a programming committee who can weigh in on the topic, Newberry, Hall and Shertzer are all on the calls regarding sponsorships and she thinks everyone will be paying much closer attention to sponsorships than in the past.

Shertzer said he would be reviewing the final contractual elements of the sponsorships and the decision to go with a sponsor or not would be a collaborative decision among himself, appropriate staff and the board. Staff won't approve sponsorships without board input.

FIRST QUARTER FY20 REPORT

Shertzer went over the financial and Koenig was there to answer questions. Newberry said Shertzer has only been on the job two months and inherited a flawed budget. Shertzer said he is dedicated to having a balanced budget. He would like a surplus, but for this next one, we'll just go with balanced. He also mentioned the possibility of moving to a January to December fiscal year. Hall asked what the best way to proceed would be. Koenig said he would need to check into the logistics and how quickly we could change our year-end and would have a short year the first year.

UPDATE ON EIJ20 PLANNING

Shertzer said he and Basharat Saleem on staff did a site visit and it is a great location and space. SPJ and RTDNA programming is being planned separately but anyone can attend any session. Registration opens March 23. Early bird deadline is June 26 and final deadline is Aug. 10. Sue Kopen Katcef, member of the public, said she hopes we will consider making Fellows of the Society lifetime members.

Bartlett made a motion that Fellows be made lifetime members of SPJ as part of the acceptance of becoming a Fellow, and they agree to participate in one SPJ activity. Reilley seconded. Vote passed unanimously.

COMMITTEE REPORTS

Membership Committee: Shertzer said the February membership drive kicked off today. It is for new members only. The committee wanted to include renewals but he vetoed that proposal and the committee was good natured about it. So we will see how this new iteration of a discount works.

FOI Committee: It has been active and has done some great things. There will be discussion on how we can do more to let members know about advocacy, LDF, etc.

Bylaws Committee: Chair Bob Becker said the proposed bylaws changes are self-explanatory. Bartlett asked for clarification that if someone is elected vice president, they become president. But if they are appointed vice president, they would have to run for president? Becker said that is correct. Bartlett made a motion to accept the proposal to make the language changes in the bylaws. Hall seconded.

Walker asked if there is any reason not to go back to using vice president. Becker said using president-elect gives the impression that person succeeds the president, which isn't always the case. Hall asked when it would take effect. Becker said amendments take effect immediately after they are approved by the convention. Delegates would have to approve the bylaws change in September at EIJ20 for them to go into effect immediately. Motion passed unanimously.

PUBLIC COMMENT PERIOD

Bob Becker commented on the strategic plan and sponsorship task force reports, saying the surveys show there is a fundamental misunderstanding of what SPJ is. One of the reasons is that the organization is so broad, it includes publishers, editors, reporters, freelancers – people at all levels in the industry. From the surveys, it appears a significant number of members think SPJ should be only for employed journalists, but that is antithetical of the approach which the organization operates, he said. That's why SPJ has refused to become involved in relationships between reporters and their bosses. As part of our education process, we need to make it clear who we are and why we are the way we are.

Becker also discussed the nominating process and how critical it is to the restructuring of SPJ. Part of the nominating process was to have a screening process, which should be starting now. In order for this organization to move forward, the nominating committee needs to function as it was intended so there are contested elections at all levels, he said.

Michael Koretzky discussed advocacy and diversity, saying one way to have diversity is to have interesting programs. He believes SPJ is diverse, just not at the national level. If not, why? He said SPJ might have to be more innovative than it is traditionally comfortable with. He also said SPJ Florida is very active in supporting unions. He doesn't know what happens if national doesn't want to do something, but a chapter does. But he hopes no one says SPJ Florida can no longer do that.

Sergy Odiduro sent a letter expressing concern about the budget deficit and asked if, historically speaking, SPJ faced a deficit like this before. Sue Kopen Katcef said yes, when SPJ headquarters was in Chicago there was a deficit much worse. Newberry added that an audit is a backward looking process and the deficit is a forward looking issue we have to resolve as we create the next budget. She is urging headquarters staff to move to the new fiscal year with a better picture on how to attack the current deficit and prevent future deficits.

Sue Kopen Katcef said she would like to see a meeting for student members at EIJ revived.

Jennifer Ellis said she wonders if chapter leaders realize how much time SPJ HQ spends on association management clients, etc., and thinks it would be beneficial to have chapter leader training sessions at EIJ that explain everything HQ does. Since we are no longer doing that with Scripps, EIJ seems like the logical place to do it. Others agreed.

ENTER EXECUTIVE SESSION

Aguilar made a motion to enter executive session. Hall seconded. Newberry said they would discuss partnership agreements, database management and a legal matter.

The board voted to enter executive session at 2:55 p.m. EST.

EXIT EXECUTIVE SESSION

The board exited executive session at 4:01 p.m. EST.

MEETING ADJOURNED

Bartlett moved to adjourn. Mirfendereski seconded.

The board unanimously voted to adjourn at 4:03 p.m. EST.

MEMORANDUM



Date: April 18, 2020
To: SPJ Board of Directors
From: John Shertzer, Executive Director
Re: SPJ Executive Director Report

Introduction

The old saying (or curse perhaps) that goes “may you live in interesting times” certainly seems relevant in April 2020. What a wild, frantic, and stressful two months it has been since I reported to you in February. Overall, I’m pleased to report that there are many reasons to be proud of SPJ in the midst of this crisis. Strong efforts in communication, partnerships and planning have led to us having a confident voice during these times. I also appreciate the hard work and dedication of the board in helping me navigate the cancellations, postponements, and shifting priorities each day of March brought. It was a true team effort, and we’re better off for it.

In spite of the economic shutdown having a severe impact on many nonprofits, including some of our peer organizations, I feel confident in our economic position. While we may lose out of sponsorship funds if our events do not take place, we hopefully will balance that with few if any expenditures. Thankfully our awards revenue was strong. We need to keep focused on the revenue drivers as the year progresses, with membership being my biggest worry.

For this report, I will describe some of the broader themes I’m working with these days. My weekly updates to you provide more of the day-to-day operational details. Thank you for the opportunity to continue to be your Executive Director.

COVID-19 Response

First, as a recap to an email I sent to you earlier this month, our current priorities during this COVID-19 crisis are as follows:

1. Ensure that we do all in our power to ensure that our staff, volunteers, and all members are kept safe.
2. Ensure this crisis does not harm the long-term sustainability of SPJ and the SPJ foundation.
3. Investigate our member needs and act upon those needs the best way possible.
4. Be prepared to come out of the crisis able to act quickly and without disruption of service.
5. Use this as an opportunity to seek out new initiatives that could last beyond the crises.
6. Advocate for and support the work of journalism in the face of these unprecedented challenges.

What impact will this have on membership, especially because (1) chapters are likely not recruiting new members at this time, and (2) EIJ is a big driver of membership renewals? This is a question we need to stay focused on.

We have attempted many different activities, but frankly it often feels like we're throwing spaghetti at the wall. What we have lacked during this time is a purpose to which we could stay disciplined, which resulted in staff being asked to mirror a lot of what other organizations were doing. This is very understandable, and with more time under my belt, I personally could have taken a stronger lead. Nevertheless, we still achieved much, including a series of online trainings, several website resources, a new awards program (brought to us by members) and lots of content on quillmag.com and on our social media channels. Our contract relationship with Mike Reilley at Journalist Toolbox was also a great source of information. There will be much to learn after this, including an attempt to measure ROI and impact on any of these things. Did we just keep ourselves busy (and frankly, distracted from some core challenges), or did we move the needle in any way?

Report on 6-Month Goals

We are almost nearing the end of my initial 6-month term as Executive Director. The 6-month goals I established and shared with you seem like a road map for a different era now. I won't comment on each and every goal, but only those that it seems won't be realized:

- Every goal tied to an event, of which there are many, is clearly in limbo. We still are not sure if Scripps, SDX Awards, or EIJ will take place in 2020.
- I set as a goal to provide you with a balanced budget for this meeting. The intention of that was the 2020-21 budget, but since we made the decision to move to a calendar-year budget cycle, what you will review is a current-year 2020 budget. I'm disappointed that this budget is not balanced and shows a sizable deficit.
- Bottom line: I need more time to right this ship financially. We are dealing with a difficult cocktail of declining membership, shrinking events and increased costs in many budget categories. The fixes will not be small, if we want to make any difference.
- We need more grant dollars coming in, and I'm working that angle as well. I haven't been able to secure anything in time for this budget review, but the work continues and will be a constant target of my time and attention.
- While I have visited a couple of pro chapters, I was not able to visit a college chapter before travel moratoriums kicked into place.
- I joined ASAE and have researched the steps needed to get the CAE designation, but no further progress at this point.

Budget 2020

The board will review a budget document at this meeting which lays out calendar-year 2020. As mentioned above, the budget shows a deficit. We will discuss why, and what can be done, during that portion of the meeting. Here are some broad thoughts:

- If we feel the solution is to tighten our belts and trim expenses, the results will feel severe. Our major expense categories are personnel and events.
- I do think it's time to investigate the costs of operating our own building vs. selling the facility and leasing a different space.
- I believe we win by finding new sources of revenue. My thoughts about our future way forward will illustrate how I believe this starts with sharpening our purpose. We've seen

other organizations like CPJ get major donations, but I don't believe it's because they have a better process for asking, it's because they have a purpose that's easy to identify and easy to support. What's ours?

What's Next for SPJ?

One thing this pandemic crisis has revealed is confusion as to our purpose and mission in the journalism ecosystem. It's been a reminder that we don't have a clear roadmap that we could point to and say, THIS is what SPJ should be doing in a time like this. What is our unique contribution?

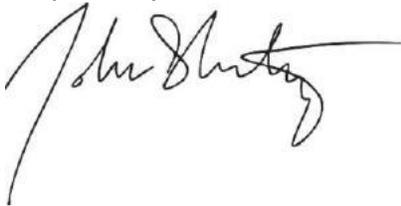
We are truly the swiss army knife of journalism organizations and that leads to a lack of discipline and focus. I would love to drive us forward toward more of a unique, identifiable and easily understood purpose from which our activities emanate, our decisions about staffing and committees are based and that can be used to easily win over fans in the funding community. I hope to share some of those thoughts with you during the April meeting.

On the Horizon

- As of the writing of this report, it's still all COVID-19 all the time. However, by the time we gather again in June, I'm hoping:
 - We have a draft of a strategic plan.
 - We have more clarity on EIJ20 and some firm proposals for 2022.
 - We have a new ethics textbook that we can promote.
 - We have a resolution to the Region 10 issue.
 - We are more than halfway done with a new member database.

This is still a fantastic time to be an SPJ member. Our organization is strong, and its best days are ahead.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "John Shertzer". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

John Shertzer

MEMORANDUM

Date: April 3, 2020
To: SPJ Board of Directors
From: Nerissa Young, Chair of EIJ Sponsorship Task Force
Re: Summary of proposed SPJ sponsorship policy



(Note: The Task Force brought its recommendations to the board at the Feb. 1 meeting, with its original report in the [board packet for that meeting](#) and board discussion noted in the minutes for the meeting.)

No organization or donor is automatically excluded by terms of the proposal.

The practices of accepted donors, partners, exhibitors and advertisers should support SPJ's pillars that advocate the free practice of journalism, foster diversity, stimulate high standards of ethical behavior and vigilance in protecting the First Amendment guarantees of free speech and a free news media.

The SPJ national board retains full autonomy to reject a donor, partner, exhibitor or sponsor for any reason.

An added safeguard is the SPJ executive director, not an outside firm, will review each contract before it is accepted.

The proposal meets concerns expressed by members individually via a survey and delegates at SPJ's two previous EIJ Conference business sessions.

The proposal provides consistent guidance to SPJ headquarters staff.

The proposal also conforms to SPJ's existing policy on swag bag contents.

The proposal encourages, but does not require, that those who plan local and regional SPJ programs follow it.

The resolution creating the task force charged it with presenting a proposal to delegates by the first business session of the next EIJ Conference.

The task force endorses the proposal unanimously, 9-0.

MEMORANDUM

Date: April 13, 2020
To: SPJ Board of Directors; SPJ Finance Committee
From: John Shertzer, Executive Director
Re: Proposed SPJ Budget for Fiscal Year 2020



Included with this cover memorandum are two proposed budgets for SPJ for the fiscal year ending December 31, 2020. We are attempting to plan our best for contingences related to the COVID-19 crisis.

As you review this information, please remember that this is merely a management tool, albeit an important one. The numbers presented represent staff's "best guess" based on fixed expenses, estimates, historical data and trends. We do our best to stick to it, but we always adjust one way or another depending on what the year brings. This year is the most uncertain one facing associations like ours in a long time (and maybe ever).

Budget proposal A was developed for a more normal year, in which we would hold our signature events. Budget proposal B was developed to try our best to show what canceling our signature events could do to our bottom line. Obviously, COVID-19 will not only impact events, but these are easier numbers to project and account for. Staff recommends that you approve both budgets, with proposal B being a contingency if needed.

In either case, the organization faces sizeable deficits. This would have been true with or without COVID-19. At the time, staff did a poor job of building a realistic budget for FY 2019, which left the organization to believe it was in a better financial condition than it was. A few years of major membership decline, some unforeseen expenses related to staff disruption, and many other smaller factors have led us to this point.

That being said, we can turn this around. It starts with a clear and compelling vision for the next 5 years, which can then appropriately influence some of the major revenue sources and expense categories. Again, a budget is a management tool that responds to vision and strategy, and not the other way around. For example, we do not have any reason to believe that membership will increase in 2020, and the budget reflects this. However, with a change in strategy and a renewed sense of purpose and mission, we can see that trendline change. Once the aspirational pieces are in place, and then plans are built to fulfill those, we can change our financial conditions.

Let's accept this budget where it is, but keep our head held high for the turnaround that could come in short order.

A few specific notes:

- We have shifted the finances for the Google and Facebook programs from the Foundation budget to the SPJ Budget. This is with the blessing of the Foundation board. On the revenue side, you'll see Contract Administration fees of \$448K and in the expenses you'll notice Trainer Fees at \$145K and Participant/speaker travel at \$141K. All of these variances are because of these new programs in our budget.
- Awards revenue is sizeable, but should track at that rate because our submission process for the bulk of awards ended before COVID-19.
- We have pulled our contracted labor (Facebook Manager and Events Manager) out of the salaries and gave them their own "Consultants" expense line.

Staff will be prepared to answer your questions at the board meeting.

MEMORANDUM



Date: April 18, 2020

To: Patti Newberry, SPJ President and SPJ Board of Directors

From: Sue Kopen Katcef, Chair, Awards and Honors Committee

Re: Awards and Honors Committee Report

Members of the SPJ Board,

The months since EIJ have been extremely productive for the Awards & Honors Committee.

Starting with the most recent effort:

A terrific idea from committee member Michael Koretzky quickly turned into reality with our new CCC (College Coronavirus Coverage) Awards contest. We have partnered with the Associated Collegiate Press, the Society for News Design and College Broadcasters, Inc. in creating this weekly competition honoring the incredible, ongoing work by college journalists around the country—and even a few beyond our borders.

The response the first two weeks has been amazing: 258 entries in week one (from 125 different programs), 172 in week two. Those entries came from 163 student media outlets and nine professional outlets (which published the work by the students).

We've had entries from colleges and universities large and small (including community colleges). Headquarters is working to find out which programs have SPJ student chapters. The plan is to reach out to those without chapters to encourage them to join SPJ.

The contest is ongoing and won't wrap until the pandemic ends.

In a year when we continue to see more news organizations shrink or go out of business, entries for the SDX Awards were up ever-so-slightly over last year.

The MOE entries had a very strong showing at the start but the final tally was down over two hundred from the previous year from 3340 entries to 3109.

Entries in this year's New America Award contest were up nearly 34%.

I've included the numbers from all of the contests (with comparisons to the previous three years) below. I've also included a summary for the entries submitted to the ****new**** MOE and SDX categories.

We are hopeful that there will be an SDX Awards dinner this year and that we'll be able to begin a new tradition of honoring the MOE "Best of Show" MOEy winner at the dinner. We are still in the process of working on a plan to help cover the costs of the MOE-y winner to attend the dinner.

As you know, the selection of SPJ's Historic Sites is now the responsibility of the Awards Committee. Along with that, as I've previously mentioned, we undertook a complete overhaul of the Historic Sites page on spj.org. We will be doing something very similar this summer with the Fellows page which is also due for a major improvement to make it worth stopping by to check it out.

Respectfully submitted,



SDX:

1,185 entries for 2019 calendar year
1,181 entries for 2018 calendar year
1,189 entries for 2017 calendar year
1,341 entries for 2016 calendar year

****New SDX Categories****

Fact Checking: 7
Immersion Journalism: 3
Collaborative Journalism: 8
Data Visualization: 14

MOE:

3,109 entries for 2019 calendar year
3,340 entries for 2018 calendar year
4,002 entries for 2017 calendar year
3,502 entries for 2016 calendar year

****New MOE Categories****

Data Visualization: 24
Immersion Journalism: 7
Collaborative Journalism: 2

New America:

87 entries for 2019 calendar year
65 entries for 2018 calendar year

126 entries for 2017 calendar year
76 entries for 2016 calendar year

MEMORANDUM

Date: April 13, 2020
To: SPJ Board of Directors
From: Lynn Walsh, Ethics Committee Chair
Re: SPJ Ethics Committee Report



About: This committee's purpose is to encourage the use of the Society's Code of Ethics, which promotes the highest professional standards for journalists of all disciplines. Public concerns are often answered by this committee. It also acts as a spotter for reporting trends in the nation, accumulating case studies of jobs well done under trying circumstances.

Who: Eleven journalists based in cities throughout the country sit on the committee. The committee is chaired by Lynn Walsh, the Assistant Director of the Trusting News project, and a freelance journalist. The other committee members are: Lauren Bartlett, Fred Brown, David Cohn, Annie Culver, Elizabeth Donald, Mike Farrell, Paul Fletcher, Michael Lear-Olimpi, Chris Roberts, Alex Veeneman.

What: The SPJ Ethics Committee is working toward its mission by participating and leading the following programs:

- **SPJ Ethics Hotline:** Responding to ethics inquiries received through the ethics hotline is one of the most rewarding and interesting projects I have had the pleasure of leading. Since October 4, 2018, SPJ has received 196 inquiries from working journalists, the public and students. I said this in my last report, but I'm going to repeat it this time as well: I think this service is one of the most under-advertised tools that SPJ offers. The people who call in are extremely grateful for the support and advice. I really feel this hotline hits at what SPJ's core values are and would like to see it more widely shared. I think this hotline is something SPJ should be proud of and it would be great to see if there is a way to get it funded to support the time and effort the volunteers commit to it.
- **SPJ Ethics Week:** The committee worked with Jennifer Royer to make Ethics Week a possibility again this year. Due to timing of several other events SPJ was working on and COVID-19 we have decided to move Ethics Week to the fall, sometime in October most likely.
- **Public Training Program:** We have created a 45-minute presentation that can be presented to non-journalists that uses the SPJ Code of Ethics to explain how journalism works and what journalists do to the public. Now that the presentation is finalized, the committee will help SPJ market the presentation. The idea is that members of the public would request this training and SPJ members would lead the presentations. With COVID-19, I do not think the timing to launch something like this makes sense since the

idea is to do the trainings in person. Instead, the committee is working with SPJ to see how it can help talk about ethics and COVID-19 coverage. So far, we have led one Twitter chat and published a blog related to the pandemic coverage but are open and talking about doing more.

MEMORANDUM

Date: April 9, 2020
To: SPJ Board of Directors
From: Paul Fletcher, FOI Committee Chair
Re: SPJ Freedom of Information Committee Report



This report will provide an account of the activities of the SPJ Freedom of Information committee so far this year, with some discussion of plans for the balance of 2020 (although planning anything for the balance of this dumpster-fire year is difficult).

Black Hole Award. The committee awarded the 2020 Black Hole Award to the Connecticut State Police for their numerous violations of the state FOI law and willful disregard of the public's right to know.

We awarded two "dishonorable mentions" as well: The Senate Republican Leadership, for its access restrictions imposed on journalists covering the impeachment trial of President Trump, and the Las Vegas Metro Police Department, for its refusal to disclose vital public records.

Sunshine Week. In addition to the Black Hole Award, the committee coordinated with the communications staff on a series of FOI tips that were used in SPJ's social media channels.

Local Advocacy Toolbox. The committee has completed its canvass of what type of work is being done, and by which chapters, to help us determine what tools will be part of the project. We reviewed the chapter reports submitted to SPJ national to gather a list of current activity to create a clearinghouse to connect beginning chapters with experienced advocates and to show what is possible in advocacy.

With all the problems created by the coronavirus, stay-at-home orders and meeting cancellations, our agenda for this project remains uncertain.

Our plans to meet with elected representatives in DC in June in conjunction with the SDX awards got canceled when the awards were delayed.

The committee was/is hoping to be part of a program that Michael Koretzky and Lynn Walsh were developing for EIJ on how to lobby. Haisten Willis of the committee will be involved. We will know more in the next few months.

PIO Research. Our efforts in finding an academic to pick up the baton left by Carolyn Carlson on PIO research were not very successful. But Dave Cuillier noted at our Feb. 15 meeting that there are a number of academic competitions that are producing the type of research and study we were hoping to see.

Publication of Articles by Members. Two members of the committee have had success in getting articles on FOI issues published in the past few months.

Kathryn Foxhall had a piece published by MedPage Today, “You Think China Has a COVID-19 Censorship Problem? We Aren't Much Better,” in March. That piece is available at:

https://www.medpagetoday.com/infectiousdisease/covid19/85440?xid=nl_mpt_blog2020-03-16&eun=g613020d0r&utm_source=Sailthru&utm_medium=email&utm_campaign=ItsAcademic_031620&utm_term=NL_Gen_Int_Its_Academic_Active

And Haisten Willis had an article published on the SPJ Quill site this month, “CDC sued over release of policies restricting free speech.” That piece is available at:

<https://www.quillmag.com/2020/04/03/cdc-sued-over-release-of-policies-restricting-free-speech/>

MEMORANDUM

Date: April 13, 2020
To: SPJ Board of Directors
From: Leticia Steffens, J-Education Committee Chair
Re: SPJ Journalism Education Committee Report



#Press4Education: This continues to be the J-Education committee's main focus. Because of changes to her job duties, Rebecca Baker had to relinquish her responsibilities in overseeing this initiative and participating in J-Education. We brought Becky Tallent out of retirement to oversee (and she was glad to do so). Becky, Kym Fox and Leticia Steffen are now handling inquiries from instructors as they come in. We've made 57 matches since September. In light of new demands being placed on educators to provide remote/online instruction modules to students during this pandemic crisis, we have begun converting some of the more popular #Press4Education modules (fake news, basic reporting, media law, media ethics, broadcasting, editing) to videos for educators to access. We received an overwhelming response from journalists and J-Education committee members who have already done #Press4Education presentations and who are willing to convert presentations to videos. Because of the huge response, we have also asked some folks to help put together videos addressing some current issues related to the importance of journalism in this pandemic crisis, how journalists continue to work and serve their communities, etc. From Becky: "With the videos coming in today (Friday, April 3), we should have them branded and ready for use by teachers next week. When they are ready, I will let JEA and all the teachers waiting for speakers know. I think we will keep the same system of them making the request, then we get the video to them, that way we can keep track." Becky also notes that we're making rapid changes to #Press4Education in light of the pandemic, and we hope to be able to use these videos not only this year, but also in the future when we run into places where we simply cannot get a volunteer to the location. Again, from Becky: "We moved pretty quickly to get this completed to be of use this school year."

Minority Serving Institutions: We continue tweaking the list of U.S. minority serving institutions, removing colleges/universities from the list that have either closed down or do not have journalism/writing programs. J-Education committee members are reviewing the list of institutions in their regions. Once this review is complete, we will begin determining which colleges/universities we want to reach out to and sharing the benefits SPJ could provide to support their journalism endeavors. A one-page flyer summarizing these benefits was also developed to share with these colleges/universities once we are ready to begin contacting them.

We have had some changes to the J-Education Committee membership (job changes, retirements, etc.). Leticia shared the new roster with Billy, and he updated the information on the SPJ website.

J-Ed Committee member Tracy Henion has volunteered to resurrect our Facebook page (she created this in 2015 then left the committee but recently rejoined).

We've had two meetings since EIJ: Friday, Nov. 8, 2019, and Friday, March 6, 2020.

MEMORANDUM

Date: April 13, 2020

To: SPJ Board of Directors

From: Hagit Limor, LDF Committee Chair, and LDF Committee Members Patti Newberry, Matt Hall, Paul Fletcher and Alex Tarquinio

Re: Legal Defense Fund Report



The LDF committee has taken action on 36 cases since our last report for the annual convention in September. Below are short synopses taken from our attorneys' descriptions of each case. As always, more cases are likely to come in between this reporting deadline and the full board meeting, but we will report those in the next annual report. Thanks to our Baker Hostetler attorneys Mark Bailen and Kristen Rasmussen for their initial summaries.

9/1/19 RCFP Amicus - PETA, et al. v. Cooper, et al. (M.D. N.C.)

Federal court case in North Carolina challenging the constitutionality of an N.C. law that is like an "ag-gag" law but targets all of businesses, not just agricultural facilities. It creates a civil cause of action against employees who record images or sound within a company's premises. Such statutes chill reporter-source communications and interfere with investigative journalism.

9/5 RCFP Amicus Brief in Digital First Media d/b/a The Trentonian v. Ewing Township, et al. (NJ OPRA)

New Jersey Open Records Act case currently on appeal. The issue is access to police department "Use of Force Reports" ("UFRs") involving juvenile suspects. The *Trentonian* is seeking these records and has asked that the juveniles' names be redacted so disclosure does not reveal juvenile identifying information. The trial court upheld the Township's outright denial of the records. The amicus brief canvasses practices in other states that allow for redaction and production of this information, including in Ohio where WCPO-TV did an extensive investigation based on UFRs. WCPO found that black juveniles were subject to excessive use of force more often than white juveniles. The brief argues in favor of using less restrictive means, such as redactions, to allow for disclosure of as much public information as possible while also protecting other interests (such as juvenile identity information).

9/6 Smith v. Van Meter

We awarded West Virginia freelance journalist Jay Lawrence Smith \$1,500 to help his review of court files from the Grant County, West Virginia Circuit Court relating to a criminal court case. The Grant County Circuit Clerk provided the court files for Smith's inspection but charged \$1/page to make copies. When Smith said he would instead photograph the files with his phone, the clerk said no, then said he could do so but would still have to pay \$1/page. Smith has visited other West Virginia county courts, and none has charged him for taking digital images of the files. Smith sued Grant County Circuit Court, lost, and appealed. A favorable ruling from the appeals court will send a strong message to clerks and judges that "copying

fees” should not be used as a deterrent and hinderance to full and complete review of public records by members of the press or public.

9/6 RCFP Amicus Brief in *Pitch v. United States* (11th Circuit En Banc)

An appeal regarding the unsealing and disclosure of grand jury materials (in this case, involving a mass lynching that took place in Georgia in 1946). The judges’ panel held, as have other appeals courts, that a judge can unseal grand jury materials under both the Rule exceptions and the common law. But a recent D.C. Circuit opinion came to the opposite conclusion. The amicus brief argues that the full 11th Circuit should stick with the panel’s ruling and allow for disclosure in certain circumstances. The brief supports broader disclosure of public documents and information.

10/2 RCFP Amicus Brief in *Martin v. Rollins* (First Circuit)

This is a controversial case as it involves Project Veritas, which has engaged in some activity that arguably does not always adhere to the SPJ Code of Ethics. But the legal issue is an important one for journalists. The issue for a federal appeals court is whether the Massachusetts wiretapping statute, which requires two-party consent, is unconstitutional to the extent it prohibits secret recording of government officials, including the police, in the public performance of their duties even where there is no reasonable expectation of privacy. The RCFP brief argues that the public is served when both private citizens and the news media are able to record government officials, including the police, in the public performance of their duties.

10/14 RCFP Amicus - *Georgia v. Public.Resource.Org* (SCOTUS)

A U.S. Supreme Court case involving the ability—or lack thereof—to copyright a state’s official annotated code. (By way of explanation, annotated codes are compilations of statutes authored by the state legislature that include, in addition to the actual text of the statute, which *cannot* be copyrighted, summaries of judicial decisions, regulations and attorney general opinions relating to that statute.) PublicResource.org, a California nonprofit organization, won at the Eleventh Circuit, which found that “the People are the constructive authors and owners of these works, meaning that the works are intrinsically public domain material and, therefore, uncopyrightable,” but the state of Georgia appealed. The brief argues that this right is necessary to oversee and participate in government by quoting from what are often helpful interpretations or explanations of the law.

10/15 RCFP Amicus - *Spectrum News NY1 v. NYPD* (NY Appellate Division, 1st Dep’t)

We supported a New York cable news television station’s attempt to obtain body-worn camera footage from the New York Police Department under the state’s Freedom of Information Law (FOIL). The department denied NY1’s request for footage from five specific weeks, arguing, in part, that because making redactions to the videos would be “unreasonably difficult,” FOIL does not mandate the disclosure of the footage. The brief argues that FOIL provides no basis for withholding records on the grounds that redacting portions would be too difficult, and that such claims of unreasonable burden are vastly overstated in light of modern technology. It also argues that, because the purpose of FOIL and the body-worn camera footage program is to

increase transparency about law enforcement conduct, such footage must be timely released and not prohibitively expensive to request. A ruling holding that a hearing is required to determine if it is unreasonably burdensome for an agency to release a public record under FOIL would set a bad precedent, threatening the prompt release of records relating to matters of significant public concern and imposing additional costs on news organizations and the public.

11/1 RCFP Amicus -- Challenge to Email Warrant Non-Disclosure Order

We signed onto an amici brief in support of Microsoft's challenge of a non-disclosure order under the Stored Communications Act in a federal case in New York. SPJ signed onto a similar amici brief in Washington state in 2016. However, Microsoft dropped that suit after the government agreed to limit its applications for non-disclosure orders—or gag orders preventing Internet providers from telling people when the government has obtained a warrant to read their e-mail during an investigation—to one year or less. In this case, a magistrate judge denied Microsoft's motion to modify a non-disclosure order that had been extended for an additional year after the initial one-year gag period. Microsoft is asking for a review of the magistrate judge's order. The brief argues that government surveillance and non-disclosure orders detrimentally affect newsgathering, reporter-source relationships and the free flow of information to the public.

11/6 RCFP Amicus: Gannett Satellite Information Network LLC v. New York State Thruway Authority (NY App. Div. - FOIL

SPJ served as the lead amicus to support *The Journal News*, a Gannett paper that covers Westchester County, in a Freedom of Information Law case in the New York Appellate Division's Third Department. This request for support came to us from the Deadline Club, SPJ's New York City chapter.

The appeal challenges the trial court's ruling that, even though the New York State Thruway Authority took nine months to produce documents related to the closing of the Tappan Zee Bridge and opening of the Mario M. Cuomo Bridge, and then only after the paper sued for the records, the agency's delay was not unreasonable, and thus the paper was not entitled to attorneys' fees. The brief highlights the larger problem of routine denials of and delays in access to records, arguing that such policies greatly impede the news media's ability to gather and promptly disseminate information about significant matters of public concern to the public. It also emphasizes the importance of FOIL fee-shifting provisions, which allow journalists to cost-effectively challenge such denials and delays.

11/7 RCFP Letter in Support of NPR Illinois Journalists

We supported the journalists at NPR Illinois, owned and operated by the University of Illinois with a letter, addressed to the school's Board of Trustees, urging it to grant the station's journalists an exemption from Title IX's mandatory reporting requirement. After the station—as part of a series examining professorial sexual misconduct at the state's colleges and universities—invited victims of sexual assault to share their experiences and promised anonymity to anyone who came forward, a Title IX coordinator told station leadership that its journalists qualified as “responsible employees” under Title IX, which would require them to

report alleged sexual misconduct to the school. The letter argues that NPR Illinois journalists should not be required to report under Title IX and that mandating them to do so violates the Illinois reporter's privilege statute, which allows journalists to promise confidentiality to their sources. Mandatory reporting of journalists' confidential sources will chill coverage of the university's handling of misconduct and allow abuses like those already uncovered to continue in secret.

12/4 RCFP & NPR letter to SCOTUS re sealing

We joined RCFP and NPR in a letter to the Clerk of the U.S. Supreme Court regarding the increased frequency with which the Court has been granting motions to seal Court records in recent years. The letter asked the Court to adopt a proposed rule to establish a presumptive right of access to Court records that could be overcome only by a showing that the need for secrecy outweighs this presumption. The Court had granted sealing requests in just 2 cases in 1993 but 24 in 2010 and 45 cases last year. Routinely sealing court records, particularly when there is no justification for doing so, significantly impairs the news media's ability to report on some of the most important matters facing our country today—the issues and rights that are being adjudicated by the highest Court in the nation. The practice also sets a bad precedent for lower courts considering sealing motions that do not justify the need for secrecy above access.

12/4 Legal Defense Fund grant to Rob Melendez, a freelance journalist in the Orlando area

We awarded \$4,000 to a reporter seeking access to school board records from Volusia County, Florida that have been withheld from disclosure in violation of Florida's Sunshine Law. Melendez got a tip that a track coach working at Deltona High School had been investigated and reprimanded for posting racial and sexual comments, and at least one violent video, on Facebook. The school district responded to a public records request with a denial it had any complaints or professional standards investigations, but Melendez had a copy of a letter from the District to the track coach informing him of the results of the investigation into allegations against him. Melendez then learned of other students who claim they were sexually assaulted—both by fellow students and employees—at Deltona High School, as well as other District schools, but he has been unable to obtain access to records relating to any investigation or discipline surrounding the alleged incidents, and he believes the District is purposely trying to hide a pattern of covering up sexual assaults that occur at Volusia County schools. The funds support his lawsuit seeking public access to government records.

12/5 SCOTUS amicus sign-on, Krakauer v. State of Montana

We signed onto an amicus brief in support of author Jon Krakauer's petition asking the U.S. Supreme Court to hear his freedom of information-related case. Krakauer is seeking access to the files of the state of Montana's higher-education commissioner, who overturned sanctions against the University of Montana's quarterback after a campus disciplinary board found him responsible for a sexual assault. In denying the records, the state relied on the Federal Educational Rights and Privacy Act ("FERPA"), which protects the privacy of student education records and is often misapplied to obstruct the right of public access. The amicus brief argues that the court below erroneously found that FERPA preempted state statutory and constitutional law, which, in Montana, provides a right of access to public records from state

universities. Courts' far-too-common reliance on FERPA as a means to deny access to public records impedes the news media's ability to report on matters of paramount public concern

12/7 Legal Defense Fund Grant to Lake County Voices of Reason

We granted \$500 to the Lake County Voices of Reason ("LCVOR") in central Florida, a group of residents trying to prevent the relocation of a statue of a Confederate general from Washington, D.C. to a museum inside a Lake County historical courthouse. The group is suing the Lake County Board of County Commissioners to overturn a vote that occurred after back-channel communications between the five commissioners and the president of the Lake County Historical Society, who had proposed acquisition of the statue, in likely violation of Florida's Open Meetings Law. Back-room dealings undermine the intent of Florida's strong Sunshine Law and undermine open government

12/12 RCFP Amicus Brief in CNN v. Bellbrook-Sugarcreek Local Schools

We joined an amicus brief in support of CNN in an open records case before the Ohio Supreme Court that seeks the disclosure of high school disciplinary and other records related to Connor Betts, the gunman who fatally shot nine people outside a crowded bar in Dayton, Ohio last August. The school district denied access to the records, and the appellate court agreed, citing a state student privacy law that bars disclosure of non-directory student records without student consent. The brief argues that under longstanding common law principles, an individual's right of privacy terminates upon death. The appellate court's failure to apply that general rule undermines public policy and the principle of openness, and curtails the news media's ability to report on school disciplinary records of mass shooters, past reporting of which has served a strong public benefit.

12/17 RCFP Amicus in Perlman v. Vox (Delaware)

We joined an amicus brief in a Delaware appeals court case involving a defamation claim against The Verge. The Chancery Court ruled that a hyperlink in an online article republishes an earlier article so the one-year statute of limitations for defamation is restarted. This contradicts a wide body of case law that hyperlinks do not republish the articles to which they direct readers. The brief argues that the ruling is erroneous and that given their important use in online journalism, hyperlinks should be encouraged, not deterred. If this rule of law is adopted by other courts, it would severely impact modern, online journalism and expose journalists and news media organizations to significantly increased defamation litigation.

12/19 RCFP Amicus in Libertarians v. NJ State Police (NJ Supreme Court - OPRA)

We joined an amicus brief in a New Jersey Open Records Act case pending before the state Supreme Court. The New Jersey State Police denied an open records act request from Libertarians for Transparent Government seeking the name, title, and date of separation for a state trooper who had been fired for "questionable associations" and engaging in "racially offensive behavior." Both the trial and appellate courts upheld the agency's denial despite the explicit statutory language, relying on another provision of the state Open Records Act that exempts personnel records that would include details beyond the officer's name, title, date of separation and reason for such. The amicus brief argues the importance of recognizing the plain

language of a statute and that access to these records is critical to reporting on matters of significant public interest, including patterns of police misconduct.

1/3/2020 RCFP Amicus Brief - City of Chicago v. Fraternal Order of Police (Illinois Supreme Court)

We joined RCFP in an amicus brief in a public records case before the Illinois Supreme Court involving the retention and disclosure of police misconduct records. Under the state Freedom of Information Act, complaint register files—or citizen complaints alleging police misconduct—are public and subject to disclosure, but a section of a collective bargaining agreement between the city of Chicago and the Fraternal Order of Police requires these records to be destroyed after five years. The city asked the trial court not to force the record destruction. The FOP appealed to the state high court. The brief argues that collective bargaining agreements and other contracts cannot trump a state’s public records law and outlines the strong public policy interests served by disclosure of police misconduct records.

1/12 media coalition amici brief in Karem v. Trump appeal (D.C. Cir.)

We joined RCFP in a brief to support *Playboy’s* White House correspondent Brian Karem’s legal challenge to restore his White House press pass. The White House Press secretary said Karem had violated “decorum” and suspended his security credentials for 30 days after an altercation with former White House aide Sebastian Gorka during a Rose Garden event. Karem sued in D.C. federal court seeking a temporary restraining order and preliminary injunction reinstating his hard pass. The trial court agreed that the suspension of his hard pass violated his due process rights, and the government appealed the ruling to the D.C. Circuit Court. Upholding the White House press secretary’s ability to suspend a member of the news media’s press pass based on vague standards never previously or properly articulated sets a bad precedent for public information officers and other officials at all levels of government nationwide.

1/15 Indiana DOC v. Toomey - RCFP Amicus Brief

We served as co-lead in an amicus supporting an Indianapolis lawyer, Katherine Toomey, seeking access to records about the drugs the state Department of Corrections uses in carrying out executions. The Department of Corrections denied Ms. Toomey’s request for documents about the drugs, she sued, and the trial court found in her favor. The DOC appealed the ruling, but while that appeal was pending, the state legislature passed a statute that made lethal injection drug suppliers’ identities confidential, including retroactively. Relying on the new secrecy statute, the DOC asked the trial court to modify its earlier order. The state Supreme Court is considering the case. The amicus brief argues that the statute, which prohibits pharmacists, pharmacies, wholesale drug distributors, and outsourcing facilities from identifying themselves as suppliers of lethal injection drugs to the state, even voluntarily, is a prior restraint that chills reporter-source communications. It also argues that the law denies the public’s qualified First Amendment right of access to information about the source of the drugs used in executions and highlights the news media’s longtime role in public scrutiny of the lethal injection process. A number of botched executions in recent years that, according to later reporting, involved concealed information about the sources of the drugs used show that this process requires accountability and transparency, not additional secrecy.

1/16 Letter Opposing Impeachment Trial Press Restrictions

We joined RCFP in a letter to Sens. McConnell and Schumer opposing the planned restrictions on the news media during the Senate impeachment trial of President Trump. The measures restricted the use of electronic devices, implemented additional security screening and prohibited reporters from questioning lawmakers as they moved about the Capitol. The letter asked the senators to reconsider the “overly restrictive regulations,” noting that reporters must have the ability to respond quickly to rapid developments and need reasonable access to lawmakers as they deliberate. These restrictions impede the news media’s ability to provide up-to-the-minute information about one of the most important proceedings to occur before the U.S. Senate.

1/23 RCFP Amicus Brief in *Rainbow v. WPIX* (NY App. Div., First Dep't)

We joined RCFP in an amicus brief in support of New York-based WPIX-TV in a defamation case brought by a public school teacher mistakenly named in a news article about another teacher with the same last name accused of bullying students. The trial court dismissed her complaint, finding that the news organization did not act in a “grossly irresponsible” manner—the standard used in New York for a story involving a private person but one that touches on a matter of public concern—when it relied on the mother of the allegedly bullied child as the source of information for the teacher’s name. The plaintiff appealed. The brief argues that the *current* “gross irresponsibility” standard appropriately balances the need for accuracy with the practical realities of the news business, and recognizes that some errors are unavoidable, particularly given the pressures of the 24-hour news cycle and the limited resources in many modern newsrooms. A weakened standard would make it more difficult for media defendants in New York to obtain early dismissal from defamation actions and would create greater risk for journalists to report on matters of public concern in the state.

1/29 DRAFT: *M.G. v. Hestrin* - RCFP Amicus Brief

We joined RCFP in an amicus brief in a California case involving access to wiretap applications and related documents after an investigation is closed. A retired California highway trooper sought access to post-investigation records related to the disproportionate number of wiretaps targeting him that the Riverside County courts authorized. The trial court denied his request, and he appealed. The amicus brief argues that the public has a constitutional right of public access to these documents under California’s wiretap statute, and discusses the danger of government surveillance without public oversight.

1/30 *Parekh v. CBS* - RCFP Amicus Brief

We joined RCFP in an anti-SLAPP case pending in the U.S. Court of Appeals for the Eleventh Circuit. Anti-SLAPP (Strategic Lawsuits Against Public Participation) laws allow early dismissal of meritless lawsuits stemming from an exercise of First Amendment rights. When the motion to dismiss is granted in the federal district court, as here with the CBS affiliate, defendants are entitled to an award of attorney’s fees and costs under the statute. The plaintiff has appealed the trial court’s dismissal of his claim under the Florida anti-SLAPP law and its award of fees and costs to CBS. Anti-SLAPP laws are a useful tool for news media organizations and other

defendants in defamation actions and the fee shifting provision is a critical feature. The statutes have helped discourage meritless lawsuits, usually brought as a means to chill important speech on matters of public concern and prevent journalists and others from incurring significant litigation costs. The fee shifting provision is perhaps the most significant deterrent for plaintiffs considering bringing meritless defamation claims and would benefit journalists and news organizations.

2/1 Carroll County E911 v. Hasnie - RCFP Amicus Brief

We joined the RCFP in an amicus brief to support a TV reporter seeking access to 911 audio recordings related to a 2016 fatal house fire in which four children died in Carroll County, Indiana. Carroll County E911 denied the request, citing an exemption under the state Access to Public Records Act (“APRA”) for investigatory records of law enforcement agencies. The trial court ruled in the reporter’s favor, and Carroll County E911 appealed. The amicus brief argues that not only does exempting 911 records under the investigatory records exception run contrary to the intent of the Indiana APRA, but it also poses a dangerous risk for abuse if 911 records are withheld simply because the recordings, or even portions of them, may be useful in a future investigation. The brief also demonstrates several instances where news media organizations have used 911 records to report on matters of public concern. Access to 911 recordings provides valuable insight into important matters like response-time delay, information that is vital to helping a community understand how its first responders behave when lives are at stake.

2/13 La Liberte v. Reid - RCFP Amicus Brief

We joined RCFP in an amicus brief in an Anti-SLAPP case pending in the U.S. Court of Appeals for the Second Circuit in New York. Over the past few years, the tide has been slowly shifting on whether state anti-SLAPP statutes should be applied in federal court, with more and more courts holding that they should not. This case involves a defamation claim against journalist Joy Reid and her Twitter and Instagram posts, comments and a picture of the plaintiff interacting with a boy during a city council hearing on immigration. The trial court granted Reid’s motion-to-strike under the California anti-SLAPP law, and awarded Reid attorney’s fees under the latter. The plaintiff has appealed. The amicus brief focuses on the argument that the fee-shifting provision of the California anti-SLAPP statute applies in federal court regardless of whether the motion-to-strike provision applies in federal court. Anti-SLAPP laws are a useful tool for defendants in defamation actions, including journalists and news organizations, and the fee shifting provision is a critical feature.

2/18 Kentucky Supreme Court in Kentucky Kernel FOI case

We supported a public records case brought by the Kentucky Kernel, the student newspaper at the University of Kentucky, involving access to records relating to a faculty member disciplined for sexual harassment. The Kernel sought documents relating to a university-conducted sexual misconduct investigation into former professor James Harwood. UK officials denied access to the records, a decision the newspaper appealed to state Attorney General Andy Beshear, who has the statutory authority to confidentially review the documents in question. But UK also denied access to Beshear, who then said that UK had violated the state Open Records Act. The

amicus brief, led by the Kentucky Press Association and Student Press Law Center, argues that the university's reliance on the Family Educational Rights and Privacy Act (FERPA), a federal law that governs access to public educational student information and records, to blanketly refuse compliance with the public records request is misplaced. It also argues that the question of how state universities respond to allegations of sexual misconduct by faculty toward students is a matter of public concern which the public has a right to obtain.

2/20 Madoff Compassionate Release Public Access to Victim Letters - RCFP Amicus Lett

We joined the RCF in a letter asking the federal court in Manhattan to make publicly available any letters from victims that have been submitted to the court or will be submitted in response to Bernie Madoff's request for a compassionate release. The RCFP letter points out that a fundamental principle of the American criminal justice system is implicated here: documents that are filed with the court, including records that are considered in sentencing or other incarceration-related decisions, are court records subject to a First Amendment right of access that can be overcome only to the extent necessary to serve a compelling interest in keeping the documents secret. There is a strong public interest in gaining insight into the information relied upon by the government and the court in considering Madoff's request for compassion and leniency.

2/24 DRAFT News Media Coalition comments/FAA NPRM re: Remote Identification of UAS

We signed onto comments by a coalition of media organizations to a Federal Aviation Administration's ("FAA") Notice of Proposed Rulemaking ("NPRM") on Remote Identification of Unmanned Aircraft Systems ("UAS"). We encouraged the FAA to limit the impact of rules governing drones on journalists and news organizations. One recommendation – asking the FAA to establish an "accredited news representative designation" that would exempt journalists operating drones in certain airspace from some of the rules – may appear problematic to the extent that it requires a definition of who qualifies as a "journalist." However, the "accredited" designation would be no different than requiring credentials for journalists to attend certain press conferences or participate in pool coverage.

2/27 RCFP Amicus Brief in *Becerra v. Superior Court* (CA Ct. App./CPRA)

We joined RCFP in an amicus brief to support the First Amendment Coalition and KQED in a California Public Records Act case that involves access to law enforcement records on firearm discharges, uses of force, sexual assault and dishonesty. The trial court ordered disclosure of the records, but the California attorney general refused to release records of law enforcement officers of *other* agencies, even though the AG possesses those records. The brief discusses why the new law should be interpreted broadly in favor of access. Even though the California law has been in effect for less than a year, it has already been the subject of a great deal of litigation, most of which has resulted in findings favoring public disclosure. A ruling that agencies need only release the relevant records of their *own* employees would undermine this pro-transparency trend in California and impede the ability of journalists to report on important law enforcement matters.

2/27 Rojas v. FAA - RCFP Amicus Brief

We signed onto an RCFP amicus brief in a FOIA case in the U.S. Court of Appeals for the Ninth Circuit.

The records at issue in this case, filed by an aspiring air traffic controller whose application was denied, relate to the test that the FAA administers to applicants and considers in the hiring process. The Ninth Circuit three-judge panel ruled that FOIA Exemption 5, which prohibits public disclosure of certain intra-agency records, did not apply, and thus the records were public. The FAA had argued that the records were exempt because they involved documents that the FAA received from an outside agency, a consulting human resources firm. The amicus brief argues that the panel correctly decided the issue.

When courts expand the scope of FOIA exemptions beyond their plain language, the law's goal of increasing disclosure of government activity is undermined, and reporting suffers. For example, information about matters of significant public interest and concern is often uncovered by examining the government's contracts with third parties.

3/13 The New Mexican v. PNM & BHP - RCFP Amicus Brief

We joined an RCFP amicus brief that asks the New Mexico Supreme Court to review a lower court ruling from an attempt to obtain a prior restraint against the *Santa Fe New Mexican*. Three private companies along with the New Mexico Public Regulation Commission ("PRC") sued the newspaper to prevent it from publishing records that the PRC inadvertently disclosed in response to a public records request. The paper countersued for malicious abuse of process and conspiracy, in response to the plaintiffs' efforts to obtain a prior restraint. The First Judicial District Court properly refused to grant the prior restraint but also dismissed the *New Mexican's* counterclaims under the *Noerr-Pennington* doctrine, which protects certain petitioning activity under the First Amendment. Application of the *Noerr-Pennington* doctrine in this case is problematic. The doctrine is not meant for a government agency and companies allied with the agency to shield themselves when they bring what is essentially a frivolous lawsuit to obtain a prior restraint against a newspaper. The brief argues that if the lower court's decision to dismiss the *New Mexican's* counterclaims under the *Noerr-Pennington* doctrine stands, it could inhibit reporting about matters of significant public interest and concern. New Mexico news organizations may be discouraged from such reporting if they face prior restraint litigation and are unable to recoup the costs of defending the lawsuits.

3/13 Tah v. Global Witness - RCFP Amicus Brief

We joined RCFP in an amicus brief in a case pending before the D.C. federal appellate court over the applicability of the D.C. Anti-SLAPP Act in federal court. Anti-SLAPP laws help defendants in defamation actions, including journalists and news organizations, as tools to discourage meritless lawsuits brought as a means to chill important speech on matters of public concern.

3/16 US v. Stone - RCFP Amicus Brief

We joined RCFP in an amicus brief in support of a motion seeking access to juror questionnaires and the identification number of the jury forewoman in the Roger Stone prosecution. The brief relies on the First Amendment presumptive right of public access to voir dire proceedings, including juror questionnaires, as well as the public policy interest in promoting public

understanding of the criminal justice system. Juror questionnaires often provide unique insight into the makeup of the panel tasked with passing judgment on a criminal defendant. It is particularly important in this high-profile case, where the impartiality and veracity of the jury foreperson have been challenged by the President and others.

3/27 Fed. R. Crim. P. 6(e) - RCFP Letter to Rules Committee

We joined RCFP in a letter in support of the Public Citizen Litigation Group (“PCLG”) and several historical groups’ request to amend the federal rule of criminal procedure governing access to grand jury records, including historically and socially significant materials. The letter is directed to the committee that approves the rules of practice and procedure for the federal judiciary system. Federal Rule of Criminal Procedure 6(e) codifies the tradition of secrecy surrounding grand jury proceedings, though it allows the court, by way of its supervisory authority over the grand jury, to approve some exceptions. Some federal appellate and many federal trial courts have interpreted the “supervisory authority” language broadly such that information not specifically named as an exception may be disclosed. However, last year the D.C. Circuit Court of Appeals ruled otherwise, holding that courts lack the “inherent authority” to disclose grand jury materials not covered by an explicit exception contained in Rule 6. The RCFP letter in support of the PCLG asks the committee to amend Rule 6(e) in a manner that recognizes the existence of the courts’ inherent authority to permit the release of grand jury materials in appropriate circumstances. Unsealed grand jury records provide unique insight into the inner workings of the criminal justice system as it prosecuted some of the nation’s most historically significant individuals.

4/3 Ones v. PBSA - RCFP Amicus Brief

We signed on an RCFP amicus brief in an Arkansas Supreme Court case governing access to court records. The case involves the interplay between an Arkansas Supreme Court administrative order, the state FOIA and the First Amendment right of access. The court clerk handling the request—primarily for docket sheets, charging instruments, and records reflecting the disposition of criminal charges—relied on the administrative order in denying the request; in the lawsuit challenging that denial, the requesting party, a Professional Background Screening Association (“PBSA”) member, argued that the First Amendment and common law right of access apply, while the trial court ruled that the state FOIA governs the issue. The amicus brief argues that the court records that the PBSA seeks are subject to the constitutional right of access and highlights the important news reporting that stems from public access to court records. It also argues that the administrative order should not be read to include a request for existing court records related to a person, so as to avoid a conflict with the First Amendment right of access. A holding by a state’s highest court that a First Amendment right of access does not apply to court records is a bad precedent that could make it exceedingly more difficult to obtain records and report about matters of significant public interest and concern to reporters in Arkansas.

MEMORANDUM



Date: April 18, 2020

To: Patricia Gallagher Newberry, President, Society of Professional Journalists
Board of Directors, Society of Professional Journalists

From: Colin DeVries, Membership Committee Chair

Re: Membership Committee Report

Executive Summary

The SPJ Membership Committee, which now consists of 12 members representing 10 of SPJ's 12 regions (save Regions 6 and 9), has been working to advance the mission of supporting, increasing and retaining society membership. Since the previous board meeting on Feb. 1, a membership drive was during the month of February and we rebooted the #SPJ4All campaign on Valentine's Day after two and half years. We also had a wide-ranging discussion about the state of membership following a presentation by Executive Director John Shertzer.

The combined efforts of the Summer 2019 and February 2020 drives, led to 627 new or lapsed members joining during drive periods. Detailed reports on these drives are available in the SPJ HQ Membership Memorandum provided to the board ahead of today's meeting.

I have also included a request the committee had expressed at EIJ that remains outstanding.

Current/Proposed Initiatives

- Assist in providing member support during pandemic
- Identifying tangible/intangible SPJ benefits for recruitment
- Student-only membership drive for fall semester
- Student sponsorship campaign
- Integrated membership promotions around SPJ Communities (Gen J, Freelance, Digital, International, Community Journalism)
- Campaign highlighting member testimonials – How SPJ Helped Me #humansofspj or #wearespj
- Help develop a better system to roll student members into post-grad membership upon graduation
 - o Automatic connection for post-grads into Gen J Community
- A potential date for an "ask a friend to join SPJ" campaign

Request

- Monthly membership reports – # of members by type (student, pro, post-grad, etc.)

MEMORANDUM



Date: April 7, 2020

To: SPJ Board of Directors

From: Regional Coordinators/Jane Primerano, RC Committee Chair

Re: Our status

Since our regional conferences have been cancelled or postponed, I don't have anything to report on the usual spring activities.

The RCs changed the criteria for the Chapter Grants and will award grants for innovative virtual programming. The deadline for applications is April 29.

We have a few RCs who are not running for re-election. I have offered to help them find candidates.

The Deadline Club approached me with a suggestion to pool funds from the regions to provide assistance to members who are out of a job as a result of the crisis. I reached out to the RCs and will keep Lauren Bartlett posted. Since R1 is really the only region with a considerable bank account money and Deadline is one of the few clubs with funds, I'm not really sure what we can do.

Obviously our pro and student chapters have canceled programming for the spring. I am trying to stay in touch with my chapters and have asked the other RCs to do the same to offer any possible assistance.

I hope all of you stay safe during these difficult times.

Jane Primerano

Regional Coordinator Committee Chair

MEMORANDUM



Date: April 13, 2020

To: SPJ Board of Directors

From: Caroline Escobar, Manager of Membership and Chapters

Re: Chapter Action

SEEKING TO BE CHARTERED

Colorado State University – Pueblo	Region 9
Northeastern Illinois	Region 5
Sam Houston State	Region 8

CHAPTERS TO INACTIVATE (See agenda item 11c.)

The listed chapters represent chapters that have not submitted proper documentation in at least three consecutive years and have been unresponsive to communications sent to correct the delinquent nature of their record.