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Editorial for December 8: On WikiLeaks

8 December 2010

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We suppose someone in the "secret" subcommittee that we guess is going to be deciding the fate of Cayman's Freedom of Information Law will say something like this over the coming weeks:

"One only need look at what has happened with WikiLeaks to see the dangers inherent in FOI."

In attempts to head off this foolishness – since we haven't been invited to participate in any hearings of this secret body – we would opine that the mass, indiscriminate release of government documents to all and sundry, documents that may have been obtained through suspect means, should not be equated to FOI or any open records process or law.

It is, in fact, the direct opposite of what is supposed to occur under the FOI Law. Most open records regimes create a set of legal steps whereby individuals can ask for records, government entities can either grant or refuse those requests, the people affected by the release of the information can have their say and there is an appeals process to make sure everything is done fairly. If the legal process is followed, there will be a fair and equitable solution. Everyone might not be pleased with the outcome, but no one can say they were not part of the process. Many pundits in the mass media have spent days giving their views on whether WikiLeaks' actions in releasing various US diplomatic cables were good or bad, right or wrong. We will not seek to add to their views here.

What we would like to express is our fear that the latest WikiLeaks release will serve as an excuse for governments around the world to further restrict access to legitimate public information.

Indeed, we have seen from experience here in Cayman that the public sector often takes great umbrage when it is embarrassed by information revealed via FOI requests. But embarrassment is not a reason to begin whittling away at democracy and the free press.

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Editorial for December 8: On WikiLeaks

Posted by John Evans on 12/8/2010 5:02:47 AM

I'm not familiar with the details of Cayman's FOI legislation but the UK's FOI 2000 specifically states, "Embarrassment is not a sufficient reason to withhold information."

And, in general, public bodies here have now learnt the hard way that attempting to withhold embarrassing information only makes matters a lot worse.

If the right to FOI is not recognised by politicians then they must expect the media (and I'm not condoning WikiLeaks - whose indiscriminate release of information puts lives at risk and falls way outside the bounds of responsible journalism) to get their information from whatever source they can.

Having worked in a public sector press office in the UK, I can vouch for the fact that there's nothing more embarrassing for your bosses than seeing something of public interest that they have been trying to try to keep secret splashed across the front page of a local newspaper.

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Closed-door FOI review set

FOI Commissioner wants key role

By: Brent Fuller | brent@cfp.ky
8 December 2010

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It appears the legal review of Cayman's first Freedom of Information Law will not be done before the eyes of the public.

A six-member Legislative Assembly subcommittee is scheduled to begin meeting 'in camera' – privately - this month to review Cayman's Freedom of Information Law.

The law review is mandated in the FOI legislation which took effect on 5 January, 2009, and calls for the legal review 18 months following the implementation of the open records law. It is likely that review will not be completed until next year.

A number of recommendations about changes to the law have already been made by the FOI Commissioner's office. However, Commissioner Jennifer Dilbert was not named as one of the committee members.

According to Cayman Islands Attorney General Sam Bulgin, a committee of the entire LA met on 15 September behind closed doors and decided on the subcommittee's formation.

Mr. Bulgin said the members of the committee are himself as chairman, Speaker of the House Mary Lawrence, MLAs Ellio Solomon, Ezzard Miller and Dwayne Seymour and Opposition Leader Kurt Tibbetts. The group was expected to meet within the next week or two.

"As chairman, I am not aware of any plans to hold the meetings in public," Mr. Bulgin said. "But I have not spoken to committee members about that yet."

The Caymanian Compass has contacted all five other members of the FOI review subcommittee regarding their position on the meetings being held in public. We will publish their comments if and when the newspaper receives them.

The attorney general said that he would agree to publish both the minutes of the subcommittee meetings and a report on the group's findings when those were complete.

Premier McKeever Bush has previously stated that his administration is committed to continuing with the open records law in Cayman. However, Mr. Bush has questioned whether the ability of people to make anonymous requests for information is proper and he has also said the legislation does bring substantial costs with it.

Mrs. Dilbert, who is charged with handling all appeals of FOI requests, has said that the anonymity aspect of FOI is essential for the continued success of the law. Given previous comments about the FOI review by Premier Bush and Cayman Islands Governor Duncan Taylor, Mrs. Dilbert said she expected to be 'front and centre' in leading the role of the committee.

Mrs. Dilbert, reached while on leave this week, said through a spokesperson that her office didn't wish to unduly criticise the FOI subcommittee before it started its work.

"We believe we need to wait and see how the subcommittee proceeds," said Deputy Information Commissioner Jan Liebaers.

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