

Good Morning.

My name is Robyn Tomlin, and I am the executive editor of the Star-Banner – a mid-sized daily newspaper that serves Ocala and all of Marion County. I am also a board member with the Florida Society of Newspaper Editors.

I'm here this morning to talk about three aspects of the state's Sunshine laws that need some clarification.

Let me start by telling you a story.

In January 2006, Marion County's only publicly owned hospital, Munroe Regional Medical Center, started a search for a new CEO. By way of background, MRMC is governed by a hospital authority board, which is appointed by the county commission. The hospital receives millions of dollars each year in state and federal tax money. It is also exempt from paying county property taxes. Because the hospital authority leases the hospital to a private not-for-profit entity that actually operates the hospital, some hospital executives and board members have argued for years that the state's Sunshine laws should not apply to the hospital. We have,

obviously disagreed on that point and we have continually pressed them to abide by the laws.

In January 2006, the hospital board appointed a search committee for the CEO position and hired an Atlanta-based consulting firm to help gather qualified candidates and assist with the process.

Early on in the CEO search, several members of the Munroe Regional Health System board of directors made statements about the need to shield the identities of CEO applicants during the search. They feared that many top-notch executives employed at other hospitals wouldn't apply for the job if they knew their interest in Munroe would be made public.

In April, and again in June, the Star-Banner made written requests to the search committee chairman, for any records related to the CEO search.

Each time, we were told that there was no list of "candidates" and that the committee had no records or resumes to share.

We later learned that by May of that year, the consultant had identified 19 CEO candidates for the hospital's search committee to consider. Committee members were then given access to the company's proprietary database of resumes to review. After reviewing the resumes, each committee member shared a ranking

with the consultant and discussed their opinions of each candidate's qualifications one-on-one with the consultant. Using the consultant's ranking system, the committee members culled the group to five. They then brought each of those candidates to Ocala in late June for interviews. Each candidate spent time with each search committee member separately to avoid having to announce the interviews as public meetings. On July 12, the search committee met in open session for only the second time since its creation in January. At the meeting, they - and we - were all given the resumes of the five highest ranked candidates. They then proceeded to choose two finalists. The following day, we made a third public records request for all records related to the search committee's activity. Over the next few months, we discovered that the committee had worked with the consultant to create a process intentionally designed to frustrate the cause of openness. The consultant, the database of resumes, the ranking system, the one-on-one interviews with candidates were all efforts to obfuscate. The search committee chair insisted that public wasn't entitled to view the resumes of those considered for the job because they were

not considered “official” candidates until the search committee met to whittle the list of the top five men to two. He claimed that the resumes of those considered were not public because they were housed in the consultant’s proprietary database and the committee members didn’t have direct access to them.

We wrote several stories about the process, which instigated an investigation by the state’s attorney’s office and later a grand jury indicted the hospital corporation. The grand jury report noted the committee repeatedly used "evasive devices" and "extreme measures" to conceal the names of the candidates in order to "frustrate" Sunshine Laws.

The grand jury report said, “We are concerned that if such extreme measures were taken to avoid public scrutiny in this matter, they may have been used, or may be used, in other aspects of the hospital's operation.”

The charges were later dropped after the board agreed to acknowledge the law, revise its lease to ensure that the board would vow to follow "principles of operating on behalf of the citizens and operating in the spirit of open government.”

Since then, they have worked to better comply with the law.

This story highlights three things I'd like for you all to consider as you continue to look at the state's access laws.

First, we are not the first media entity to get into a dispute with a publicly owned hospital over access. Many of the authorities created to govern these hospitals lease the actual operation of the hospital to private entities. Several newspapers in the state have fought similar battles as they've attempted to get public information from these private operating entities that reap the benefits from being publicly owned.

Second, local government entities increasingly outsource aspects of their responsibility to external entities that maintain data that is public in nature. In cases like this one, they enter into contracts that restrict access to that data by the public. They then hide behind "proprietary" software or database layouts to shield the information from the public. The law needs to prohibit contracts that shield public information or hide it in databases that cannot be accessed. Finally, even when the law clearly requires government agencies to turn over public information, some still ignore these requests. Most citizens faced with a denial are simply out of luck. Without the resources to put up a fight or the weight of a journalist's investigative work leading the way, no law enforcement agency is

likely to jump in to assist in situations like the one I've described.

And without a binding mediation program aimed at helping to resolve these disputes, most citizens are simply out of luck.

I would hope that these are three areas that you are looking to find remedies for as you go about your important work.

Thank you for your time and for the work you are doing here and thank you for allowing me to speak to you this morning.