

## Daycare, Sunshine & Day in Court – Part A

*(This case was assembled by University of Georgia journalism graduate student Geoffrey Graybeal for JOUR 5170, Advanced Studies in Journalism, using articles from The Carroll County Times and an interview with Jonathan Jones. See Works Cited for a complete list.)*

Jonathan D. Jones wanted to know more.

The Carroll County *Times* reporter was assigned to write a longer, investigative piece on a local daycare operator who had a child care center shut down in the summer of 2003 after police discovered that a convicted child molester was working there.

A police investigation into allegations of sexual assault against children at the Rainbows and Reasons child care center in Westminster, Md., revealed that a convicted child molester was working at the 2103 Sykesville Road facility.

James A. Gregory was a 58-year-old computer contractor working at Rainbows and Reasons in Westminster, county seat of a county adjacent to Baltimore, in early August 2003.

He was an alcoholic and his employer knew it, according to court records. Gregory lived in a halfway house for alcoholics in Baltimore that daycare operator William Cunningham owned.

Gregory worked at the day-care facility in exchange for rent at the halfway house. He was also a convicted child molester, and was wanted in Washington state for violating parole.

Gregory wasn't required to get a criminal background check in order to work at the child-care center because he worked on computers and helped with grounds maintenance, but did not work directly with the children.

William Cunningham, the owner and operator of the Rainbows and Reasons child-care center, also operated one child-care facility and 10 after-school programs in Carroll and Baltimore counties.

"We wanted to see if this was a one-time thing that he screwed up royally or a regular thing that they didn't do background checks," Jones said.

The *Times*, a 25,000-circulation daily newspaper in the Baltimore suburbs, filed a Public Information Act with the state's Child Care Administration requesting access to records of complaints, sanctions or violations for other facilities owned by Cunningham.

The paper was denied.

Jones spoke with his boss, Editor Jim Lee, about the paper appealing the decision. Jones and Lee agreed that the newspaper should file an appeal with the state's administrative law court.

"I asked (Jim) are we getting an attorney for this appeal and he said no, you can handle it," Jones said. "So I was sort of stuck. I could either argue on my own or drop the appeal."

***Discuss:***

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- 1) What should Jones do? Should Jones, the reporter with no legal background, proceed with the paper's appeal or let it go? Should the paper take another route? Why or why not?
- 2) Why would the paper want to know about Cunningham's other facilities? Is there a public interest? Do you think the paper is right in requesting the additional information?

## Daycare, Sunshine & Day in Court – Part B

“I felt like it was too important to not give it a shot myself,” Jones said. “We decided to give it a try that I’d go in and do the argument myself.”

Jones spent the month of January 2004 preparing to go before a judge in administrative court and state the newspaper’s position. Jones, the county reporter, sought advice from an attorney for the state’s press association, went to the law library to look up some old court cases, and tried to form a legal argument.

In court, Jones found himself in a small courtroom with no one but the judge, the deputy attorney general representing the state, the head of the licensing agency that denied the paper’s request for records and his boss, Jim Lee, who sat in the crowd for moral support.

During the hearing, Jones introduced evidence from other court cases involving Cunningham, cross-examined the state department head, and delivered a closing argument.

“I was nervous,” Jones said. “I’m not a great public speaker. I certainly had never argued in court before, but I tried to get through it the best I could. It was certainly a surreal experience.”

Despite Jones’ effort, the paper lost again. Administrative Law Judge Judith Jacobsen issued a decision upholding the state’s Child Care Administration’s refusal to release records for other facilities owned by Cunningham.

The *Times* had asked the administrative judge to find a compelling public purpose, as allowed by the Maryland Public Information Act, to release additional information. In Jacobsen’s decision, she wrote that a compelling public purpose did not require release of records. She also wrote that parents of children enrolled in Cunningham’s day care-center or parents considering enrolling children in one of Cunningham’s day-care centers have access to the complaint records.

In response, the newspaper wrote a news story about the judge’s decision and an editorial taking her to task for what they viewed as strange logic.

“Public records cannot be partially public,” Lee wrote in the paper’s editorial.

The *Times* also had a decision to make about how to proceed with its quest for the records.

### ***Discuss:***

- 1) Was Jones courageous to argue a case for the newspaper? Why or why not?
- 2) Did Jim Lee exhibit courage in writing the editorial and attending the meeting to support Jones? Why or why not? Should he or the paper have done anything differently?
- 3) What should the newspaper do next?

## Daycare, Sunshine & Day in Court – Part C

Before appealing the administrative court ruling to a higher court, the newspaper decided to make one more attempt with the attorney general's office. This time the state attorney general decided to turn over the records to the newspaper.

The *Times* had been consulting with Tom Marquardt, editor of the Annapolis *Capital* and an expert in Freedom of Information issues. Marquardt was willing to lend a helping hand because of the public interest and his newspaper had similar problems getting records from state officials. Jones thinks Marquardt may have helped sway the attorney general.

After being given the green-light by the attorney general and responding to the request, the Child Care Administration provided the Carroll County Times with 91 inspection reports from Cunningham's facilities that each contained at least one violation of state child care regulations. Some contained as many as 14 violations. The records covered a 14-year period beginning in 1990.

Jones analyzed the data and in May 2004 published an article that showed the Rainbows and Reasons child care center in Westminster was cited 19 times over two years for violating state child care regulations before it was shut down on the unrelated child sexual abuse charges.

In all, the paper found that Cunningham's facilities were cited 18 times for failing to keep up-to-date criminal background checks on employees, with the most recent criminal background check violation occurring in January 2003.

None of the 335 citations contained in the 91 inspection reports was an offense so egregious that it required punitive measures from the Child Care Administration, Louis Valenti Jr., regional manager for Carroll County, told Jones during the course of his reporting.

But Cunningham knew Gregory was wanted on a warrant for passing bad checks in Nevada, according to an administrative law judge's determination. Cunningham's attorney denies that Cunningham ever knew there was an open warrant for Gregory.

Police found all this out about Gregory when the parents of a 1-year-old child who was enrolled at the school reported that their son had signs of sexual assault, according to court records. An ensuing investigation by Carroll County's Child Abuse/Sexual Assault Unit revealed numerous allegations of assault, although none more serious than what happened to the boy.

Nearly two years after the allegations shut down the day care center, Gregory was charged in 2005 with sexually abusing two 3-year-old girls at the Westminster child-care center in the summer of 2003.

Gregory was charged with four counts of child abuse, two counts of sexual abuse of a minor and one count each of second-degree rape and third-degree sexual offense. In 2004, The Maryland legislature passed a law that requires employees at child-care centers to submit criminal history and child-abuse checks to the state Child Care Administration before starting to work.

Under the old law, the Child Care Administration would only receive the background-check results for child-care center owners and directors.

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The Carroll County Times received the 2004 Public Service Award from the Maryland-Delaware-D.C. Press Association for its efforts. Jones is now studying to become a lawyer. He wants to work in media law, particularly on Freedom of Information and First Amendment issues.

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