

## Case #4

In a recent case, Florida authorities declined to file charges against a Miami Herald columnist for surreptitiously recording a phone call from a city commissioner who later committed suicide in the newspaper's lobby. Authorities cited the unusual circumstances that led to the taping as the basis for not filing charges against the columnist. These circumstances were not enough for the Miami Herald, who took immediate action to fire the columnist for violating a company policy that prohibited the taping of sources and interviewees without the subject's consent.

State laws related to the recording of phone calls and the courts interpretation of these laws vary widely in the United States. Many of these laws are intentionally written with ambiguous terms and interpretation is typically required on a case by case basis.

The firing of this popular columnist caused much protest around the world. Many members of the Herald staff signed a petition requesting the decision to fire the columnist be rescinded. The columnist was friends with the city commissioner, and the commissioner provided regular sources for stories to the columnist.

According to the columnist, the commissioner was despondent over public allegations about his sex life and the tone of his voice on the phone conversation was so alarming that the columnist impulsively decided to record the conversation. The tape records the columnist's attempts to calm the commissioner. Throughout their 20-minute conversation, the columnist attempted to steer the conversation to less volatile subjects in the hopes of lifting the commissioner's spirits. But the call ended with the commissioner still despondent. A few minutes later, the commissioner shot himself.

Following the suicide, the columnist told editors of the Miami Herald that he had been interviewing the commissioner earlier in the day and had recorded part of the conversation without the commissioner's consent.

After being fired, the columnist was quoted as saying "In a tense situation I made a mistake. The Miami Herald executives only learned about it because I came to them and admitted it. I told them I was willing to accept a suspension and apologize both to the newsroom and our readers. Unfortunately, the Herald decided on the death penalty instead."

The Miami Herald editors have taken the position that there must be an absolute prohibition of the paper's reporters taping conversations without a party's consent, and not just because it is against the law in Florida, as it is in many states. An executive of the Herald has stated that the policy is necessary to protect the paper's integrity, as well as to foster trust from news sources.

Journalists at the Miami Herald have pointed out that at least one other reporter surreptitiously taped an interview, but was not fired. The journalists also have also stated that there is no written policy on taping conversations and that any verbal policy on expectations of reporters is unclear. The Miami Herald responded to the alleged case of a previous surreptitious

taping by saying “we understand this happened 18 years ago”. They went onto state that the recent decision to fire the columnist was clearly guided by the environment in which journalists operate today; which is much more constrained in terms of the latitude given for violation of law and policy.