

Jail recording violates rights, confidentiality

■ **OUR OPINION:** Tape recording steps on legal traditions and breaks law

"Caution: Any conversations between incarcerated members and visitors may be recorded and/or monitored within the visiting area at any time."

These 21 words (or at least a policy stating the same) could have possibly kept the Lane County Jail out of its current battle with Catholic Church officials concerning a recording made of a meeting between a triple-murder suspect and a Catholic Priest.

Instead, the jail is beginning to feel the wrath of the Catholic Church and other religious and legal organizations.

Conan Hale, named by Lane County prosecutors as a suspect in the murders of three teenagers found late last December on a Springfield logging road, took the sacrament of reconciliation (confession) from Timothy Mockaitis, priest of St. Paul's Catholic Church in Eugene in jail on April 22.

And jail officials recorded that dialogue.

According to one news report, an official from the district attorney's office said Hale knew about the possibility of being recorded.

But according to a Eugene spokesperson for the Catholic Church, the knowledge that a confession might be recorded would keep a priest from even meeting with an individual who wanted to take the sacrament of reconciliation.

Apparently, Mockaitis went into the meeting with the understanding that he and Hale would be covered by the privilege of confidentiality that the Catholic Church has had for years.

The bottom line is that the recording should not have been made and it should be inadmissible as evidence for the prosecution in court.

Not only does the recording over-step religious boundaries and rights, it infringes on one's right to uphold the 5th Amendment to the Constitution — the right to refrain from self-incrimination.

“Not only does the recording over-step religious boundaries and rights, it infringes on . . . the right to refrain from self-incrimination.”

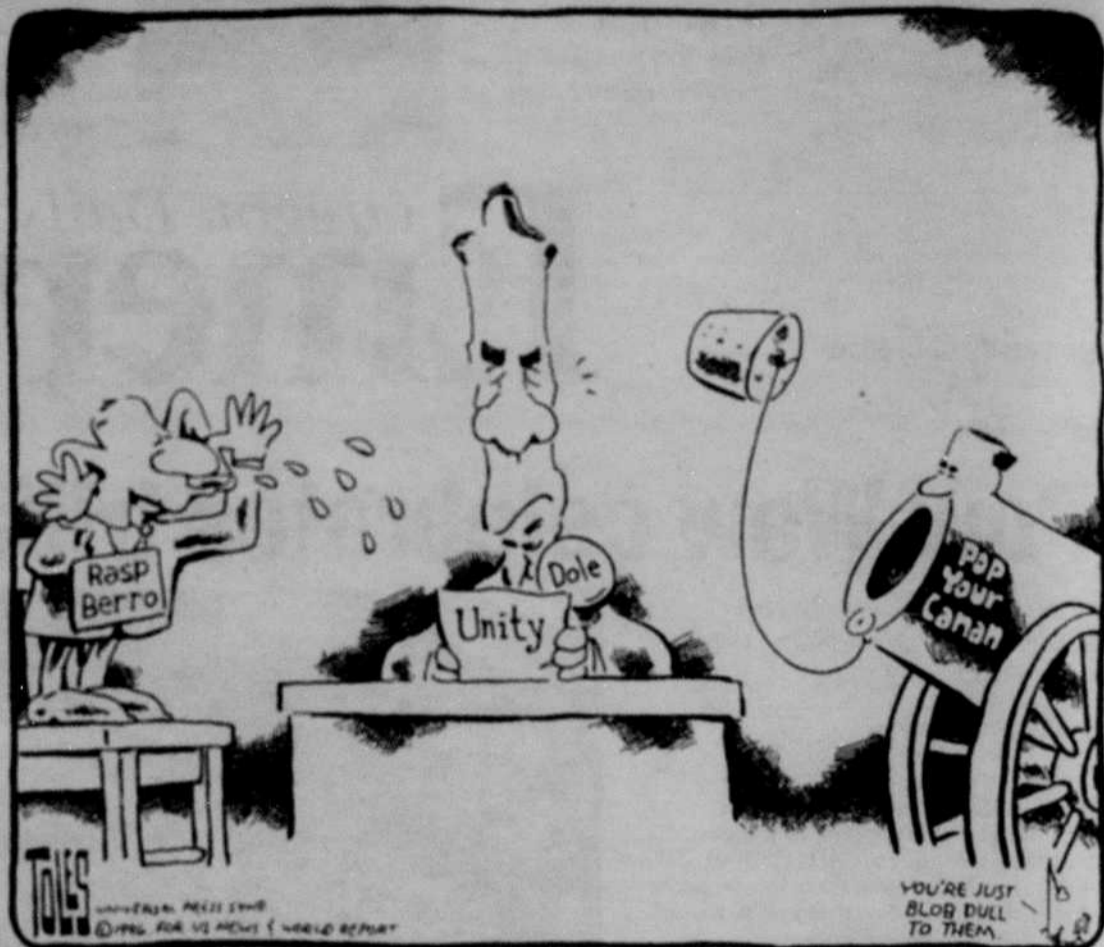
According to one University law professor, the only way prosecutors could use the recording as evidence would be if they could prove Hale knew about the possibility of being tape recorded and had then waived his right to confidentiality.

District Attorney Doug Harclerod said the recording was made with the intention of gathering and developing evidence and not as an attack on the Catholic Church or any other church or religion.

But the damage has already been done.

If the tape somehow makes its way into the courtroom, which is an extremely slim possibility, the results will be grave consequences for personal freedom and confidentiality traditions and laws.

This whole mess could have been avoided if only Lane County Jail officials had made it clear to both parties that somewhere at some point in the conversation, a tape recorder just might be turned on.



Support free community broadcasting

How the hell can we expect new technologies to solve our problems when we don't effectively use what we already have? Why do so many people talk about finding ways to build a sense of community, and then completely ignore one of the most powerful tools available? Are we, as a culture, too stupid, ignorant and apathetic? Are we so conditioned by what is that we are incapable of seeing what could be?

Last week, I had the opportunity to see most of the "Ethics After the Holocaust" conference from the unique vantage point of being part of the video crew that broadcasts most of the conference over cable and satellite TV.

Unlike TV viewers and conference attendees, my view of the event was a series of fragments from each of the lectures interrupted by the need to change camera positions, switch from one camera image to another, make sure name keys came and went as needed and to adjust audio levels as conditions changed.

While this somewhat schizophrenic view prevented me from hearing everything that each of the speakers said, it did provide me with an example of why our culture has so much trouble communicating with one another.

The conference was a unique, perhaps even historic, assembly of some of the most profound thinkers alive today in the areas of ethics, social interactions and social responsibilities.

For three days, the speakers freely shared their knowledge and understanding with their audiences, and for three days a crew from the IMC broadcasted live via cable and satellite TV. It was an amazing experience, but it left me wondering.

The cable transmissions made the conference accessible to anyone in Eugene, Albany, Salem and Portland who were tied into TCI cable. Satellite transmissions could be received by anyone tuned into that particular satellite from Mexico City up to Canada and as far east as the Mississippi River. But what if you weren't tied into TCI and didn't have a satellite dish capable of receiving the signals?

Here was a tremendous wealth of information and insight being transmitted, and yet only a tiny fraction of the population of the entire western United States would see it because what was being said was not commercial.

It is unlikely that any commercial TV broadcaster could find a sponsor to pay for the broadcast time, the broadcasters couldn't make any money from the program, and therefore, none of them selected it.

To their credit, OPB is thinking about broadcasting some of the tapes from the conference, especially the one-on-one interview with Elie Weisel. But what about the other 15-plus hours?

That conference, like many such events, had the potential to help us better understand the many social problems that continue to haunt us

and help us find workable solutions to those problems. Everyone in the western United States could have seen that conference, but as long as access to broadcast TV is limited to what is commercial, they never will.

The answer is community-based local TV broadcasting. I'm not talking about cable TV; there is already community access to cable. Only a fraction of households are plugged into it for a cost. Virtually every household in America has a TV that is capable of receiving broadcasts at no cost. And I'm not talking about public broadcasting as it now exists. OPB faces all of the economic pressures that commercial stations do. If it doesn't broadcast shows that attract and hold large audiences, it can't attract the money from viewers and corporations that it needs to operate.



Larry Haftl

I'm talking about community access to broadcast TV. Commercial broadcasters are currently pouring millions of dollars into Washington in order to get more chunks of the broadcast spectrum allocated to them by the FCC.

The technology already exists to allow these broadcasters to transmit two or more channels in the same space

that they now use for one channel. They plan to use that extra bandwidth to sell paging and other telecommunications services. So why not force them to make at least one channel in every community open to local community access programming?

Why not have at least one channel in every community dedicated to broadcasting town hall meetings, local government meetings, community action programs and even conferences like the one last week?

Instead of limiting access to those who are able to subscribe to a given cable system, why not make those programs accessible to the entire community at no cost?

There are people who struggle every day to send worthwhile information to those who want it. There are people in every community who want to know what occurs in their community but do not have easy access to that information. Local TV broadcasting can solve each of those problems.

Think of the power such a tool could bring to the shaping of a sense of community. The technology already exists. All that seems lacking is a vision and the willingness to pressure our elected officials to make true community access a requirement for broadcasters who want more of the broadcast spectrum.

Larry Haftl, a senior majoring in journalism, is a columnist for the Emerald.

Oregon Daily Emerald

P.O. BOX 3753 EUGENE, OREGON 97403

The Oregon Daily Emerald is published daily Monday through Friday during the school year and Tuesday and Thursday during the summer by the Oregon Daily Emerald Publishing Co., Inc., at the University of Oregon, Eugene, Oregon. A member of the Associated Press, the Emerald operates independently of the University with offices at Suite 300 of the Erb Memorial Union.

Unsigned editorials represent the opinion of the Emerald editorial board; signed columns represent the opinion of the columnist.

The Emerald is private property. The unlawful removal or use of papers is prosecutable by law.

Editor-in-Chief: David Thom

Managing Editor: Marcelene Edwards

Night Editor: Andrea DeYoung

Community: Sherry Rainey, editor; Melissa Labahn, Dawn Paugh, Brian Womack

Higher Education: Regina Brown, editor; Jean M. Bond, Laura Kapekora, Jennifer Schmitt

Student Activities: Jennifer Carter, editor; Ashley Bach, Kristin Bailey, Doug Irving

Sports: Trevor Kearney, editor; Andrea DeYoung, assistant editor; Chris Hansen, Pete Schneider

Entertainment/Supplements: Nicole Krueger, editor

Freelance: Lara Pittman, editor; De-Lo: Joshua Olson, editor

Editorial: David Bartlett, Nicole Kristal, editors; Kelly Anderson, Jesse Bohner-Clancy, Keith Cunningham, Larry Huff, Kay Krautscheid, Sonja Sherwood

Copy Desk: Karl Hastings, copy chief; Paige Bills, Anna Beth Grimes, Tracy Picha, Paul Van Sickle

Photography: Matthew Stiffler, editor; Andrew Backenack, Lo Min Chang, Elena Garber, Shannon Kilduff, Darcie Weisman

Graphics: Dennis Bolt, Matt Garton

General Manager: Judy Peadar

Advertising: Becky Merchant, director; Anne Amador, Lee Yen Bah, Yujin Oh, Marco Cheng, Justin Guber, Nikki Harper, Matt Johnson, Heather Johnston, Sarah Mitchell, Trina Shanaman

Production: Michele Ross, manager; Ingrid White, coordinator; Shawna Abelle, Katherin Cunningham, Laura Daniel, Nicole Herzmark, Carrie Jones, Tara Knight, Molly McCanta, Carly Schlenker, Allison Stormo, Michael Young

Business: Kathy Carbone, supervisor; Judy Connolly; Distribution: Jeff Johnson, John Long, Ferenc Rakocz

Classified: Tara Gaultney, manager; Jennifer Neel, Jodi Sellen

Newsroom: (541) 348-5511; Display Advertising: (541) 348-2712

Business Office: (541) 348-5512; Classified Advertising: (541) 348-4343