

# Farmington Observer

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## Gag order stalled in circuit, federal courts

The rights of the media to sit in on the pre-trial hearing of a Farmington priest charged with second degree criminal sexual misconduct will have to be resolved in the Michigan Court of Appeals today before 47th District Court Judge Michael Hand conducts the hearing.

A confrontation between the press and Judge Hand occurred last week when the pre-trial hearing was delayed because of legal action taken by the Detroit Free Press which is appealing Hand's right to exclude the media from the courtroom.

The controversy of the media rights has outstripped the dramatic case of Our Lady of Sorrows Assistant Pastor Father Gary Berthiaume who has been charged with two counts of sexual misconduct which allegedly took place in the Farmington area this summer.

Berthiaume's attorney, James Lawson, agreed the matter of the press' right to report on the district court proceeding be resolved before continuing the case. Lawson maintains that the media's legal battle is interfering with his clients case.

The Free Press took their complaint to Oakland Circuit Judge James Thorman, who refused to sign a writ open-

ing the proceedings to the press because it had been brought to the district court before being presented to him.

Last week Hand went before a federal court after a case by a local television station was lodged asking the federal court to rule on the suppression order forbidding the press to report on the district court proceedings. (See related story.)

The battle between the press and Judge Hand evolved after Hand was forced to invoke a little known state statute which forbids the press from reporting on sexual misconduct district court proceedings if such a gag order is demanded by the defendant's or victim's attorney.

During the time between when Berthiaume was charged, Sept. 2, and the present, many radio and television stations, along with newspapers, have defied the court order and reported on the case.

Defiance of the statute could have rendered those reporting on the case a contempt of court citation which holds a penalty of 90 days in jail and a \$100 fine.

But Hand never had a chance to site anyone for contempt because of the restriction put on by the federal court.



The legal battle between the press and 47th District Court Judge Michael Hand started at a press conference the night Father Gary Berthiaume was arrested. (Staff photo by Harry Mauthe)

Newspapers and broadcasters are free to report on the case of the Rev. Gary Berthiaume and any others brought under Michigan's Criminal Sexual Conduct Act in Farmington District Court.

And it appears to be only a matter of time before one court or another declares unconstitutional a section allowing judges to issue suppression orders against the news media.

Federal District Judge James Churchill found Thursday "there is definite irreparable harm" and a "chilling effect" on the news media from suppression orders issued by Farmington District Judge Michael Hand.

Acting under the state law at the request of defense attorney James Lawson, Judge Hand issued two restraining orders in charges brought against Father Berthiaume, 35, assistant pastor of Our Lady of Sorrows Catholic parish in Farmington.

WXYZ-TV attorney John B. Kemp charged that in recent weeks "restraining orders are popping up like wildfire," citing a third case against the priest in Sanilac County and a morals trial of a woman schoolteacher in Macomb County.

Judge Churchill, after a full day of hearings in federal court, said he will issue a temporary injunction against the Farmington judge to prevent him from:

- Taking any action against news men and organizations for past actions in reporting on the Berthiaume case.

- Issuing further suppression orders under Sec. 520k of the criminal sexual conduct act "without expressly qualifying they do not apply to news media personnel."

Just how the case will be permanently settled is unclear. Judge Churchill several times indicated he was unhappy that WXYZ brought the suit against Hand in his federal court, whose jurisdiction is only the eastern part of Michigan. He held out the possibility the case could be taken to the Michigan Supreme Court because a state law is involved.

MICHIGAN ATTORNEY General Frank J. Kelley was blistered by failing to show up for the hearing in the Hand case although Kelley had been specifically invited.

Churchill said Kelley "didn't bother to come."

Churchill said he would keep an open mind but that his educated guess was that Sec. 520k would be found unconstitutional.

In this he got agreement from the WXYZ attorneys; Robert Williams, assistant Oakland County prosecutor; and even Lawson, the priest's attorney. Lawson said, however, he felt forced to use the law until it is declared unconstitutional "because I have to. Any order issued until it is found unconstitutional is valid."

Judge Hand, attending only the morning session, vowed he would fight all the way to the U.S. Supreme Court "at my own expense" to get the law declared either valid or invalid. He did not reveal how he personally felt.

SEVERAL REPORTERS testified about the problems they had covering the Berthiaume case and the confusion that reigned because of Hand's suppression order.

Jack McCarthy of WXYZ-TV said no one in the court building "would tell me there would be an arraignment. They lied to me... I had no notification that WXYZ was party" to the suppression order. McCarthy added he was threatened with jail by Judge Hand and also threatened by Lawson if he reported the priest's name.

Others testifying were Vince Wade of WXYZ-TV, Jane Briggs-Bunting of the Detroit Free Press, Brownson Murray, Free Press attorney, and Tim Richard, editorial director of Observer & Eccentric Newspapers. Murray said he advised the morning daily's city desk that "the court had no authority to suppress information from outside the court file." Virtually all newspapers and broadcasters reporting the priest's name used outside sources for their information.

## Counselor backs sex education classes

By LOUISE OKRUTSKY

Fifteen years ago, Mary Paonessa was charged with conducting a sex education class for a group of 18 year old high school girls. After explaining some basic information about sexual intercourse to the girls she was met with silence.

Finally, a small voice managed to ask, "Would you repeat that, please?" That's when she came to the realization that there was vacuum in their education.

Today, the Clawson teacher finds herself giving lectures to parents on how to fill that gap in their children's knowledge of life.

She will speak at 8 p.m. Monday at Flanders Elementary School, Farmington.

The situation has changed in the last ten years, according to Mrs. Paonessa, who teaches at Bishop Foley High School. However, it can bear some improving.

"TEN YEARS ago, there was antagonism and fear upon the parents' part," she recalled.

"Parents, today, are very eager to be able to do it and want to do it right," she said.

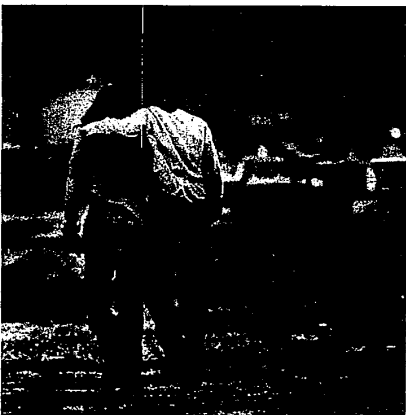
Old fears persist with parents, even in the segment that grew up in Sixties. At almost every lecture at least one parent voices the concern that their high schooler would be tempted into considering using the knowledge that they have accumulated in sex education classes.

"There's no such thing as keeping them ignorant," Mrs. Paonessa said of the teenagers.

For her, sex education taught by parents and teachers is an effective solution to the inaccurate street information that the young would use as an alternative source.

Results of believing information received on the street or in the girls' lavatory can be seen in today's young.

"Teenagers today have more biological information than 10 years ago," she commented. "But there are gaps in their knowledge."



Young love, should they be taught about the facts of life or not? (Staff photo)

"Their questions reflect a mixture of sophistication and naivete," she said.

Human nature remains the same. High school girls are still concerned about the starting a conversation with boys. They still cope with a mixture of feelings about their own sexuality, according to Mrs. Paonessa.

"They still have as many worries about their bodies as they did ten years ago," she said.

Parents experience a different self-consciousness when trying to explain sex to their children.

With changing values in society, parents find themselves caught up in the new attitude toward sex, according to Mrs. Paonessa.

"They're intrigued. They might say that they were born in the wrong generation. Yet they're protective of their

children. They end up not knowing what to say," she explained.

They might find it difficult to decide which attitudes and values to retain.

"I find parents really not wanting to be stiff backed in one direction. But they're fearful for their kids," she said.

That's where her lecture comes in. She tries to give parents some support and vocabulary so they can do the correct thing for their offspring.

Parents should concern themselves with preparing their child for the physical changes of puberty.

MOTHERS ARE COMPELLED to offer an explanation of the menstrual cycle. That discussion leads to other areas of concern, as well, according to Mrs. Paonessa.

**'Kids want to bridge the gap but they don't always know how. Sex education is a door opener. Once opened, relationships can be built.'**

—Mary Paonessa

Fathers sometimes take a different view of puberty in their sons. They remember that period of their life as one of embarrassment or guilt. Instead of discussing that time with their sons, they draw away from them. Sons at that age naturally pull away a little from their mothers. Instead of getting closer to their fathers, they are left to their own resources.

"Boys tend to pull away from home in that situation," she said.

Both boys and girls will pull away from home and adults unless they believe they can communicate with their parents.

"Those are difficult years and the key is being able to communicate during the pre-teen years," Mrs. Paonessa said.

Relationships with adults are needed by teens during this time. There comes a point when the young will pull

away from their family, but will want to have an adult friend.

"I guess we have to build communities where adults take responsibility to take care of the young," she said.

ADULTS might feel intimidated by the young. They dress differently, act differently.

"Very often adults feel the kids are laughing at them. They feel the kids are unapproachable when the opposite is true," she said.

The responsibility for nurturing an adult-teen relationship lies in the hands of the adult.

"Kids want to bridge the gap but they don't always know how," she said.

She likens the situation to someone knocking on a door, trying to get inside. Only the person on the other side of the door can open it.

"Sex education is a door opener. Once opened, relationships can be built," she said.

## Nichols is anxious to take Hills post

By STEVE BARNABY

Farmington editor

Farmington Hills new police chief, John Nichols, is looking forward to being back in the driver's seat.

Nichols, who will take control of the Hills dissent-ridden department Oct. 10, was publicly introduced Friday by City Manager George Majors at a press conference.

Majors expressed confidence in Nichols, who will take over from former Michigan State Police Director George Halverson, who served as the city's police chief for 20 weeks.

"I am happy to confirm the speculation that John Nichols will be our new police director," said Majors, referring to last week's newspaper stories that predicted Nichols would take the helm.

"He has had a distinguished career and I am looking forward to him building on the kind of department that Farmington Hills wants and deserves."

Nichols will be the department's third chief in less than a year. The force has been riddled with internal problems stemming from poor management-employee relations. Halverson had been expected to smooth over the bad feelings, but sources close to him said:

(Continued on page 7A)

## Farmington Hills sets Monday agenda

Farmington Hills City Council will meet in their chambers in the City Administration Building, 31555 Eleven Mile near Orchard Lake Road at 8 p.m. Monday.

Consideration of approval of inter-governmental agreement to become a full member of the Southeastern Michigan Council of Governments (SEMCOG) will be on their agenda.

The council will also discuss a senior citizen transportation contract. In addition, a resolution reaffirming intention and desire to be a user of Oakland County's resource recovery or energy conservation solid waste disposal facility will be considered.

Other new business items on the agenda are:

- Appointments to boards and commissions.
- Consideration of setting a date for necessity hearing for sewer on Moran Street, west of Middle Belt. Lots nine through 20 in Middle Belt and Ten Mile Flat One will be affected.

- Consideration of setting a date for cost hearing regarding sewers in Elm Grove Valley and Noble Brook Farms Plate Number One and Two in Section 25.

- Consideration of releasing about 15 feet easement of the vacated 30 feet on lot 52 of Trestain's Little Farms Subdivision to permit owner to build a house.

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- Consideration of cancelling contract with Best Asphalt in connection with work at city hall addition and waiving legal advertising and awarding contract to Detroit Concrete Products.

- Consideration of approval for final plat in Sinacola Industrial Park Section 19. Eight lots are involved. Old business up for consideration includes:

- Consideration of amending zoning of land on the north side of Thirteen Mile between Haggerty and Halsted. Richard Kuglin, proponent, wants zoning to be changed from RA1 to planned residential zoning RP2.

- Consideration to amend zoning of lot 4 of Muer Estates, the north side of Twelve Mile, east of Rollcrest. Proponent Albert Siefman wants to change the zoning from RA1 to multiple family zoning RC2.

- Consideration to change zoning of lot 5 of Muer Estates and of lot three, north side of Twelve Mile, east of Rollcrest. Farmington Hills Planning Commission is the proponent to change the zoning from RA1 to RC2.

- Consideration of changing from RA1 to RC2 zoning for lot 37 of Muer Estates, north side of Twelve Mile, east of Alkayack. Albert Siefman, proponent.

- Consideration of amending zoning for land on the north side of Twelve Mile, east of Alkayack. Proposed by

the Farmington Hills Planning Commission. The request is to change zoning from RA-1 and RA-2 to RC-1, multiple family zoning.

- Consideration to rezone land on Nine Mile and 196 expressway from RA-3 to RC-1, multiple family. Leonard Siegal, proponent.

- Consideration of amending ordinance C22 to Farmington Hills Zoning Ordinance C22. Sec 902, principal uses permitted subject to special approval. Section 903 required conditions in office service district.

- Consideration of amending sections in the Farmington Hills City Employees Retirement System.

- Consideration of request from OJ Enterprises Inc for transfer of ownership of 1977 Class C and SDM licensed business at 29134 Grand River. Farmington Hills from Louis Waack Estate, Lorraine M Waack.

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FRIENDLY DIGS

One of the largest and best-stocked book stores in the area is right here in downtown Farmington. Of course, it's Jerry's New-Used Bookstore. Read about how Jerry and his wife, Bertha, decided to open the store that was once the office of the Farmington Observer on page 3A.