

Officials still leery on on-line records



Lazy snoops would have easy access

Accident reports may no longer contain addresses.

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On-line court records continue to challenge the minds of court personnel around the country. The Associated Press ran an interesting article this past month that many of you may have missed covering a national conference on court technology held in Kansas City.

Some of the issues the group considered during its conference included, according to the AP report:

- 1) If an online database erroneously shows someone having a felony conviction, who is liable if that data costs the individual a job? And if the record is fixed, how does one prevent that erroneous record from continuing to exist ad infinitum?
- 2) What about sensitive records, such as divorce (and, I'll add, from having heard other similar discussions, bankruptcy) records? Should those be available on-line?

Apparently, according to the AP report, the conclusion was that many of these questions must be decided on a state-by-state basis. One of the apparent suggestions was that only some records should be available on-line while others are kept for only on-paper review by the public.

Apparently Missouri's Case.Net system is one of the better systems in the country. (Still, I will note, it would be more useful if all the counties were available on-line rather than just selected counties. I know; it's probably a money issue.)

Again, the conclusion seemed to be that some records are better off kept on paper because that means less access to the public because fewer people will take the trouble to go to the courthouse to get access.

That is a disappointing attitude for government to take. The public deserves to have their representatives seeking more access, not less. We continue to struggle with officials whose attitude is that giving the public less information is beneficial.

"People with no felony convictions were being denied jobs because employers didn't read the entire record and just saw the charges," the AP quoted one attendee as saying. "They didn't keep reading and see that the person was never convicted."

And so, one must ask, why does that become the problem of government? Are they responsible for the actions of the public? Why is the public's lack of due diligence the fault of government?

Finally, if you haven't seen it, there's a new Attorney General's opinion out which may be of great benefit to us when dealing with public records held by a consultant to government. In this case, it arose out of a situation in Creve Coeur where a city group had documents which had been given to a hired consultant for its evaluation and recommendations.

A request came in for access to those records. The public body denied access, claiming that they had kept no copy of those communications and that the original was held by a private entity and therefore it would not be made available to the public.

"Placing the original of a record in the hands of a private consultant does not change the fact that it is a "record of a public governmental body and thus does not place it beyond the public's reach," the Attorney General said in opinion 143-2003.

Instead, the consultant holds the record as a public governmental body's agent. It is the responsibility of the body's custodian of records to retrieve the record, if necessary, to provide public access to it, the opinion contin-

ued.

The opinion continues in a footnote that Missouri law even provides that if a private person holds possession of public records, he or she must deliver them to the public official.

I would add to that note that the statute quoted proceeds to note that failure to make this delivery is a criminal offense, something that is more than an interesting sidelight to this theory!

This is an opinion on an issue that frequently plagues us. Maybe this opinion will offer us some much-needed ammunition to resolve this issue.