

## Law officers in control at scenes of emergencies



### Develop relationships, procedures before crisis

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Many calls come into the hotline not for legal advice but for quotes to be used in stories relating to access to meetings or records or other media-related issues.

Recently, when the building collapsed in Clinton, a reporter for The Sedalia Democrat called to report that reporters for a Springfield television station had been obstructed by law enforcement officers and had been arrested while working in a location where numerous other members of the media were stationed.

My response was to acknowledge that courts have long recognized "police powers" during an emergency, and that I felt the best action in such circumstances is to wait until after the situation is over and then to address this issue with law officers when cooler heads can prevail.

The story ran and immediately was picked up by the Associated Press and distributed statewide. The next morning I received a telephone call from the head of the station, who is well acquainted with me, chastising me vigorously and telling me how disappointed he was that I was making his reporters appear as if they had acted wrongly.

After a long conversation, he agreed that I did not say they had done anything wrong, and that in fact he agreed that I was right about how to handle the situation, despite the fact he did not agree with the picture of his reporters that had been painted in the paper. (P.S. to the folks in Sedalia: I came through town coincidentally that night, read the story in your paper and thought it was fine.)

I admit I do not know the details of what has happened in regard to this situation since the story ran, but I do think the issues that were raised are good ones to consider. Especially when the consideration is not in the "heat of passion" of an emergency and when your reporters and photographers have been arrested.

Ultimately, courts will never (well, maybe I should say "hardly ever") because lawyers know the peril of saying "always" and "never") rule that law enforcement overstepped their bounds in actions taken during an emergency in order to protect a crime or emergency scene or perform their duties. It is up to us to cultivate relationships with our local law officers so they will trust us to do our jobs without their interference when a crisis erupts in our coverage areas.

In this case, it was the Highway Patrol that apparently was involved in arresting the television reporters. Again, I emphasize that I don't know who was right or wrong in this situation. I don't know if the officers were overly aggressive in protecting the scene, or whether the reporters and camera people were in an area that officers were attempting to clear.

But I do know that the Missouri Press Association has a good relationship with Capt. Chris Ricks, who handles public relations for the Highway Patrol. Any time I've needed to address a problem involving the Highway Patrol, he's always been quick to respond and ready to resolve the issue in a manner that accommodated the interests of all parties.

I suspect each of you, if you understand the principle I am suggesting, have a similar relationship with your local law officers. If you don't, I encourage you to pick up the phone today and call them and schedule a time to sit down and discuss how to avoid having a similar situation happen should a crisis occur in your coverage area. My grandmother used to say "an ounce of prevention is worth a pound of cure." You know what I mean.

On another subject: Just a quick word of warning: The California Supreme Court has issued a ruling that

should serve as a red light for all reporters who call sources in other states and record those conversations without the other party's consent.

In Missouri, as many of you know, a call can be recorded with the consent of only one of the parties to the conversation. As long as you are calling within the state of Missouri, that rule still applies. However, the law in California has always been that both parties to the call must give consent to the recording. In the case decided by the court, callers from Georgia, a one-party consent state, called persons in California and taped those calls without the consent of the California people. The court said that California law applied and that the calls therefore were wrongfully recorded.

The lesson for all of us is that unless you KNOW that the state you are calling is a one-party consent state, then you would be well-advised to let the person you are calling know that the call is being taped.

A list of each state's laws can be found at the Reporter's Committee for Freedom of the Press's website: <http://www.rcfp.org/taping/index.html>, but I hesitate to suggest you rely on that list, because there's no way of knowing if the information is current. Perhaps the best idea is always full disclosure unless there are special circumstances (in which case, perhaps a call to the hotline attorney is in order for further instructions!).