

State courts need to reconsider public's access to documents

Within two weeks of the time you read this column, the Missouri legislature will be scheduled for adjournment. It has been a memorable session, most notably for the turmoil involving the state's Governor and the criminal charges made against him. Will the legislature decide impeachment proceedings are in order before the session ends? We all are waiting ...

Meanwhile, those of you covering this proceeding have called the hotline about general difficulties you've encountered covering court matters, including files with raised security levels and the inability to get copies of pleadings from other courts. CaseNet, the state court's electronic filing system, has been in place for several years but it still has bugs to be worked out.

There are administrative court rules regarding when a case should have security levels raised (see various subsections of Supreme Court Operating Rule 2). But that doesn't mean that reporters aren't having issues with particular cases or particular portions of cases that in most instances are best addressed by having direct discussions with the local judge. If that discussion is not fruitful, reporters may discuss this further with the Office of the State Courts Administrator or with Beth Riggert, communications counsel for the Missouri Supreme Court, but know that the general rule is that deference is given to the local judge on such matters.

Reporters complain that they have not been allowed to access documents in CaseNet the same as they are permitted to in PACER, the federal elec-

tronic court system, where they can download pleadings from their office computer. They must go to the courthouse, some distance away, to see more than the docket entry. They cannot use a "thumb drive" to download a copy of a pleading but must pay for a printout. In some cases, where reporters have wanted a copy of a pleading

in another circuit, they have been told that the local circuit cannot print out a copy of a case pleading from another circuit — that the request must be made to the clerk of the distant circuit.

Why isn't Missouri Press doing something about this, reporters say? Often, the simplest solution temporarily has been for this office to simply download and email the reporter copies of the pleadings that are needed. Meanwhile, know that Missouri Press has

been working diligently behind the scenes on this issue. Unfortunately, the solution is not proving easy. The most recent correspondence I am aware of came in August last year from Betsy Aubuchon, Clerk of the Supreme Court, to Joe Martineau, attorney at Lewis Rice in St. Louis, who has represented Court-house News Service along with other media clients in seeking to shepherd the request through the system.

He has been unable to accomplish this, despite his best efforts. The letter from Ms. Aubuchon quoted then-Chief Justice Patricia Breckenridge telling the Missouri legislature, "... public access to case records can be done only if the security and reliability of the courts' essential operations can be guaranteed. And such expansion of the system will require more resources than currently available."

In short, more money is required. Meanwhile, the public now finds itself with its highest elected official facing criminal charges. The public has no way of accessing the pleadings and allegations which have been filed against the Governor, the motions and responses to those motions seeking to dismiss those charges, and numerous other pleadings in the cases.

They depend on us, the media, to write about the court proceedings in a way that provides this information. That is a significant obligation for us, made even harder because you cannot access the pleadings required to do your jobs.

NOW is the time for the Missouri court system to realize that the public needs access to court pleadings electronically. Why should the public have such difficulty in being able to read the allegations being made by a prosecutor against its state Governor? There are many citizens who would like to read for themselves what the charges are and what the defense attorneys say to the court in their motions in support of the Governor. But such access is not available.

For that reason, the Press Association has taken the unprecedented position of providing to its member newspapers easy access to the pleadings that are on file which are open to the public. Reporters need this access to do their jobs in this critical time in the state.

Just as you stand in the public's place in covering these trials, you stand in the public's shoes in reviewing and writing about these pleadings. Your job is to fully cover this event. MPA is pleased it can help to make that task easier and hopes the day will come when the public, and reporters, have full access to such documents on their own.



Jean Maneke,
is MPA's Legal Hotline attorney.
Contact her at (816) 753-9000;
jmaneke@manekelaw.com.

