

A potpourri about data access

This month, the column is a compendium of thoughts based on current events. None are important enough to stand alone, but perhaps in reviewing all of them, you'll find a nugget of information you need.

First, Missouri Press continues to gather stories of how video access has worked in your area, as well as reports on how requests for access to records has been handled. Please pass those along to Matthew Barba. We'll try to compile a report for the board meeting in June, and consider what, if any, suggestions can be gained from your collective experiences.

Similarly, we'd like to hear about your access to court proceedings and records. Perhaps you've experienced difficulties during this closure that will help persuade the courts that reporters urgently need access to Case.Net in an enhanced way. Looking for stories if you have them, also!

And while we are on that subject, let me add one postscript to last month's column

about video access to hearing at the highest state court level. In the Wall Street Journal's special Coronavirus section one recent Friday, a reporter interviewed one of the lawyers participating in the U.S. Supreme Court telephonic argument last month. She talked about setting up a "stage" in her home to make her feel comfortable as she undertook an unprecedented

activity in her career. She talked about the shock of hearing a question from the lips of Justice Clarence Thomas. But she also talked about how tough it was not to see the justices' faces.

Clearly, this has been a learning experience for everyone in the court system. It's not hard to predict that significant changes will be coming to the court system and legal process in years to come that are generated from the experiences of the last two months. As recently as last fall, the

House Judiciary Committee again considered measures that would make the federal appellate courts, including the U.S. Supreme Court, more accessible to the public. As CNN analyst Jeffrey Toobin told lawmakers last fall attending the House Judiciary Subcommittee on Courts, Intellectual Property and the Internet, courts must be more accessible. "In the 21st century, the only meaningful definition of public is one with audio and visual access."

(Incidentally, that committee is also studying

whether the PACER system for federal court filings needs to have its costs reduced. That is a frequent complaint from reporters. But the federal government is studying the best way to make up those costs from other sources, if users are given free access.)

Another issue that arose in coverage of law enforcement and

health department activities over the last few months has been a common misperception regarding the law known as "HIPAA" (Health Insurance Portability and Accountability Act of 1996). Somehow, the majority of public officials have gotten the idea that this federal law says ALL information related in any way to health of any person must be kept confidential wherever it is located. Fire departments and police departments cite HIPAA in closing information in their records. City officials claim they cannot release information about citizens in their records on that basis.

There is one basic principal about this law that every reporter needs to memorize. The only entities covered by HIPAA and its restrictions about information release are entities which electronically bill for providing medical services. If a public entity does not bill for the services it provides, it is not governed by HIPAA and its privacy protection provisions. Secondly, an entity which IS covered by HIPAA, for example a nursing home or other long-term care facility, can release information if it "de-identifies" that information. A great discussion about how that happens can be found at <https://tinyurl.com/ycah74ex>.

These last few months have given reporters a clear vision as to how desperate their local citizens are for information. Data is a key component in the effort to control the coronavirus and all of you play an important part in that system. The industry has struggled with the lack of advertising versus the demand of the public for access to information and how to use that to strengthen newspapers. What is clear, though, is that newspapers have never been as important to their local community as they are today.

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