

Coronavirus' effects on courts linger, even with return to 'normal'

In the sweep of the pandemic across the State, several interesting news items have appeared that should not be missed as all of you go about working hard to bring local news to your readers under the difficult conditions of just keeping your doors open.

First, our state court system made numerous changes in its operations over the last few months, going from a lock-down of court operations and the court operating only by video or conference call hearings back in March to today where increasingly hearings are being held in person in the courtroom by attorneys who are socially distancing and who appear in masks before the judge. The courts were clear to all that the judicial system was never "closed" during this time. Judges and clerks worked long, hard hours to keep matters moving under the difficult conditions we faced. Lawyers learned to argue their cases via video conferencing.

The lack of calls that came involving reporters being unable to access hearings they wanted to access seems to indicate that the system was working for reporters also across the state. It was surprising that there weren't more calls from reporters unable to view court records online, given a lack of public access to clerks' offices. And it was a reminder that reporters would benefit greatly from their own access to CaseNet's system.

This month, the Missouri Supreme Court provided rules to be used by local circuits in beginning again to hold jury trials. Sanitation, distancing and masks are all part of that plan, of course. Courtrooms will be configured and staggered appearance times will

be implemented to keep potential jurors safe as they report to the courtroom.

And it was great to read that the court system is attentive to providing a mechanism for public access to trials in its new operating plans. There is a clear statement in the new rules that "the public has the right to view open public court proceedings ..." while still recognizing the challenge of the potential lack of space within the courtroom due to the safety considerations. "If there is no room for members of the public to be inside the courtroom, it is recommended that the public have access to the jury trial and on-the-record proceedings via live stream controlled by the court," says Chief Justice George W. Draper III in the new rule for procedures for jury proceedings during this time.

For some larger courthouses, that will not be difficult, as cameras are already in place. But for most of the other courthouses, that will present a challenge. How will a courtroom in a rural county with significant

public interest in a case handle this instruction? Obviously, if the case draws significant media attention, there may be a mechanism to use the media's in-courtroom cameras to facilitate this. If not, there are no instructions in the rule to guide a court as to how to facilitate this. But you need to be aware that the rule exists, because "the public" in this rule includes "the media," without a doubt.

Meanwhile, on another subject, there are a number of stories begging to be written that will involve access to law enforcement data. Many papers have reporters already

stretched to the limit just covering what is happening in city hall itself, challenged by meetings held via video conferencing and the challenge of knowing when notice is posted about such meetings. Still, a media lawyers' program recently suggested some ideas for law enforcement stories that would be of high interest to the public, if data is accessible to reporters.

The subjects included:

1) How often people get injured during arrest, the severity of their injuries and the reason for their arrest.

2) How often prosecutors drop cases due to law enforcement misconduct or other defects in the arrest process.

3) How often forcible entry is involved in arrests.

4) Demographics on the use of "stop and frisk" techniques.

5) Demographics on traffic stops (as a reminder, the state's Highway Patrol prepares an annual report to the Missouri Attorney General on these numbers, located at <https://bit.ly/2NDNXYh>. A significant amount of other highway patrol data is located at <https://bit.ly/2Voj8v5>.)

Finally, it is notable that Kansas City has recently passed an ordinance making it clear that nobody documenting an arrest or other actions taken by a law enforcement officer, firefighter or crossing guard, can be prosecuted or arrested, so long as their actions don't impede the official duties of that person. No doubt other cities will be looking at similar provisions. Reporters being arrested has often been a risk in covering protests, and this is clearly a positive step to come out of the chaos from recent months.

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