

Testimony of Grant Hamilton,  
Publisher of Neighbor-to-Neighbor Newspapers  
Before The Commission on Public Access to Court Records  
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Good afternoon. My Name is Grant Hamilton and I am the publisher of four community newspaper in Erie and Wyoming Counties and a past president of the New York Press Association.

While it is predictable that a newspaper person would support better access to public documents -- and I do -- let me first tell you why I might argue an opposite position.

Many of us have had the experience of paying an auto mechanic \$70 an hour for a seemingly simple repair. When we grumble about the bill, the mechanic reminds us that the rate is \$10 an hour to turn the screw and \$60 an hour to know where to put the screwdriver.

A good court reporter, who knows the ropes and knows the folks, knows where to put the screwdriver. By hiring that court reporter a newspaper can, in essence, sell to the public what is free to the public. Now obviously a good reporter does more than obtain records...but by protecting that inside track to information, he has something the average person wants...information they cannot access...or at least they think they cannot. And, of course, newspapers are not alone in this. Law offices, business journals, private detectives and Internet services all have the opportunity to sell public record information to the public.

If I may, let me offer one other reason a reporter might not favor good public access to judicial records. It gives the public an opportunity to more easily check the accuracy and fairness of a reporter's work.

So, in some respects, this isn't a media issue or a technology issue -- it could be considered a consumer issue. Internet access to records empowers the consumers of the legal and judicial system and the readers of newspapers.

I am certain others have discussed the potentially significant productivity improvements electronic filing and dissemination of records could bring to the legal system, and the benefits that could be seen by the educational community.

So let me briefly discuss some ways electronic access to judicial records would benefit the approximately 40,000 readers of my small newspapers. Many community newspapers, because of the economics of community publishing, have small reporting staffs. Our newspapers cover communities in three counties, a couple of dozen municipal governments, including their local courts, and several school districts. Frankly, it is very hard for us to adequately cover judicial proceedings. This leaves us in the uncomfortable position of either not covering these stories or covering them in a manner that may offer the "who what, when and where of the story" but not the "why and how." Thus the ability of our newspaper to help our readers understand the judicial system is diminished. In many of our communities only the "sensational" cases are covered by large daily newspapers with their greater resources.

There are many areas where the electronically available information would assist in our job of informing the public. Details of Article 78 proceedings come to mind. In our communities such proceedings are not uncommon, and they often relate to land use and zoning matters that are of general public concern. As you know, oral arguments are often limited in such proceedings. The ability to easily access written complaints, answers and briefs, and to read cases cited would certainly make our reporting more accurate and thorough.

Electronic access to records, especially with adequate search functions, also would provide us with the opportunity to more quickly and accurately research trends in the disposition of cases in our courts. How does one town court deal with its DWI cases as compared to another, for example? Now, I don't believe a statistical analysis of decisions is the story itself, but it may help determine if there is a story to be pursued.

There is a hazard in journalism, that if a reporter invests a huge amount of time in research it must become a story, even if it isn't a story. There is a hazard that a reporter researching a story based on certain premise will find enough information to support the premise and miss the information that would refute it. The ability to quickly and accurately do research -- at all hours of the day -- is important in obtaining complete information and to avoid the time-is-story temptation.

Equally important, electronic access would enable editors to check facts and verify stories.

Also, especially in small towns, there is often a perception that there are people who may receive special treatment in the judicial system. It is not easy to prove or disprove such allegations, thus rumor mill can, without justification, undermine confidence in the system. The ability to quickly research such allegations could help allay those rumors, or in rare cases, prove the malfeasance of a local justice.

The ability to do story research that involves public records is an important function of newsgathering. Enabling that to be done more efficiently extends our capability, improves our accuracy, and gives our readers an opportunity to check our credibility. I believe that serves our readers and our society.

Fortunately this discussion, as I understand it, is not about making records public. That issue has been largely resolved legislatively and judicially. There is plenty of guidance as to what records are not public, leaving us with the presumption of access to most records.

There is concern that there may be legitimately private information contained in records that could be abused if easily available to the public. It's a reasonable concern and, while the same abuse is possible with hard copy records in the courthouse, I certainly support the concept that information such as an individual's social security number and credit card and bank account numbers should be given special consideration.

The key is not to restrict all information, but rather to design a system with the minimal necessary controls and to strengthen and enforce penalties for those who abuse it. When New York State replaced the winding state highways with the Thruway to improve transportation, there certainly was the possibility that there would be those who would travel at an unsafe speed and put others at risk. We didn't abandon the concept of the Thruway or restrict its use to a chosen few. We set reasonable speed limits and enforced them.

**In general there should be no different rules for Internet access to court records than exist for paper records at the courthouse.**

I'd like also to just briefly, provide a testimonial to the usefulness of the Internet. As you know New York State laws are available on-line. Prior to that time, in order to read a law I had to go to our local police station and borrow a McKinney's book -- that was only available to me from 9 to 5 on business days. And, not being an attorney, I wasn't always sure in what section of the code to look. Now I can read the law 24 hours a day, seven days a week and I can more quickly move from chapter to chapter to find what I need.

In addition to my newspapers, I also publish a stock market newsletter. At one time obtaining public information about public companies was time consuming and costly. Those who could afford to have a physical presence at the Securities Exchange Commission could obtain the information. That information (which, by the way, includes names, addresses and financial information about individuals) is now available to me in real time through the SEC's Edgar system. If you haven't visited the site, it has become quite "user friendly" to the general public. ( <http://www.sec.gov/edgar.shtml>)

I recognize that there is a cost to the taxpayer to create digital records. I believe that cost will be more than offset by the productivity savings it will create in the legal system.

More importantly, however, is the premise that information is the lifeblood of democracy. While those of us who have better access to information may wish to protect that franchise, making information available more citizens can only strengthen the democracy.

Thank you for your attention. I have provided copies of my testimony and it is also available on-line at the East Aurora Advertiser website. ([www.eastaurorany.com](http://www.eastaurorany.com), the Advertiser section on the left navigation bar under "testimony".)

I would welcome your questions.