

Illinois Judge Orders Disclosure of Anonymous

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Back in December we wrote a series of posts about the emerging issue of subpoenas seeking the identity of anonymous commenters to newspaper web sites. In the intervening weeks, the issue has continued to develop, with news coming recently that a company hired by the York Daily Record to manage its web site comment sections had agreed to disclose to authorities the identity of anonymous commenters.

Much like the Alton Telegraph case we've reported on, this case involved a story posted by the newspaper on its web site concerning a murder investigation. The local prosecutor sought the identity of the commenters because he believed they might have been eyewitnesses to the crime. Though no subpoena had yet been issued, in a hearing on the matter the prosecutor from the York County District Attorney's office indicated that he had been told by officials from Topix, LLC, the company that manages the web site comments section, that they would disclose the identities if they were served with a subpoena.

The hearing was apparently held to allow argument on whether the identities should be disclosed, but no one from Topix or the newspaper appeared. The paper's managing editor, Randy Parker, did say in a story about the controversy that "Topix is ultimately responsible for the comments on their site."

Topix touts itself as "the leading news community on the Web, connecting people to the information and discussions that matter to them in every U.S. town and city." It is a privately held company with investments from some major media companies, including Gannett Co., Inc., The McClatchy Company, and Tribune Company.

The Topix terms of service do say:

Please be aware, however, that we will release specific personal information about you if required to do so in order to comply with any valid legal process such as a search warrant, subpoena, statute, or court order. Further, Topix reserves the right to cooperate with legitimate law enforcement requests for information at its sole discretion.

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This language is a fairly standard feature of any web site terms-of-service policy.

As comments sections become more popular, and as cash-strapped newspapers turn to third-party vendors to manage this feature of their web sites, interested parties may find it much easier to approach the vendors, rather than the newspapers themselves, for the information they want.

Judging from the comments posted on the York Daily Record story about this, however, newspaper that do not intervene on behalf of their readers may find the vitality of their comments sections quickly impaired.