

Gateway Journalism

REVIEW

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From Ink to Bytes How college newsrooms are slowly catching on to the digital age

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The DePaulia student journalists at DePaul University collaborate during their weekly print production on April 19, 2024.

Photo by Quentin Blais

Student newspapers deviate from print with eye toward journalism's digital present, future

By Jeremy L. Shermak

CarriLynn Reinhard is a communication arts and sciences professor at Dominican University and an adviser to the school's student newspaper, *The Dominican Star*. Following the release of *The Star's* most recent print edition, Reinhard observed a student on the school's River Forest, Illinois, campus gleefully showing her friend the front page, pointing out that it was her laptop and her hand in the cover photo for the whole campus to see.

"The student got to have this thrill of being recorded in a newspaper," Reinhard said. "I think that there's almost kind of like a fetish aspect. The print newspaper still has this prestige that I don't think is going to go away completely."

This moment of joy aside, print newspapers have been largely ignored by

an increasing majority of the public since the dawn of the digital age. Pew Research Center found that just 5% of Americans preferred to receive their news in print in 2023. This number sinks to 4% among those of college age, 18 to 29 years.

A common bellwether for the health of news industries continues to be their print statuses. Even in this dynamic, digital-first media age, people cite the disappearance of print newspapers as an indicator of a dying news industry devastated by losses in advertising revenue, lingering impacts from COVID-19 and changing consumer habits. Long-standing publications have slashed publication days and reduced page counts.

However, for student news organizations throughout the country, dramatic changes in print production have long been old news.

A 2023 study found that 46% of student newspapers surveyed were printing less than they did before the pandemic. College journalists are reimagining the printed news product all while innovating in preparation for the digital present and future.

"People think that newspapers are dead because there's no print newspaper in a box downtown," said Jim Kelly, associate professor and director of undergraduate studies at The Media School at Indiana University. "But students definitely see their student publication as something that appears on their mobile phone, social media or maybe even a dedicated app. That's probably the direction that student publications need to move – making sure that they're employing a distribution technology that is most relevant and

accessible by their prime audience, which are their fellow students."

Student newspapers were not immune to the same pitfalls that contributed to the decline of print newspapers. Newspaper advertising revenue in the U.S. fell by nearly 60% between 2013 and 2023, according to an analysis from Pew Research Center. Many college news outlets are supported solely by advertising revenue as more institutions cut funding and student government organizations divert student fees away from media.

The student newspaper College Heights Herald, of Western Kentucky University, struggled as advertising revenue ran dry. "The Herald is all revenue dependent. It depends on the advertising that's sold by our students," said Sam Oldenburg, assistant director of student publications at WKU. "Print advertising is just not what it once was decades ago. We were seeing drops in that and it was not going to be sustainable to keep printing."

While college newspapers face similar revenue challenges, they have additional charges beyond the scope of professional newspapers. They must serve a very specific audience of college students while, at the same time, developing future journalists. This means printing decisions hinge on more than just dollars.

"We have to start structuring our college newsrooms around how the newsrooms of today look," said Jake Williams, executive director of the Illini Media Company at the University of Illinois Urbana-Champaign. "The pace in the world outside of [student newsrooms] is incredibly fast and incredibly difficult and, honestly, kind of puts us at a bit of a perilous moment in media where we are moving faster than the story sometimes. So, in addition to giving our students the tools that they need to navigate, we need to make sure they've got their reps in and that they've got the structure and the skills that they need to do that...they need to start to carve out the future of media because they'll be the ones doing it."

Student media managers and advisors say that it is not just shrinking budgets that are leading to shrinking printed news, but also changes in audience habits and student training needs.

"I think our budget has been able to stay relatively the same," Reinhard said. "We haven't really faced any budgetary cuts. I think one of the reasons why we might not be publishing more with each run and we don't maybe put out that many issues is because the students in particular aren't picking them up. They're getting their news from the website or the various social media accounts that we're running at this time."

For student newspapers, print distribution is measured somewhat anecdotally by observing the number of

copies that linger on newsstands around campus. For advisers and students alike, watching their hard work collect dust is as torturous as it is discouraging.

"You just end up with so many extra print copies left over and there's only so many places you can put those in a small university like ours," Reinhard said.

Reinhard said that the Dominican Star has adjusted its printing run, decreasing from 800 to 500 before arriving at 700 issues for its most recent edition.

At Eastern Illinois University, Joe Gisondi, a journalism professor and director of Student Publications, questions the motivation to continue costly printing when it seems that the audience is not engaging.

"No one wants to pick it up – least of all students," Gisondi said. "So why are we doing it?"

The question of whether to print or not to print is complex for student media outlets.

Some student media advisors and managers continue to push a traditional printed product because they say it is a valuable experience for budding journalists and students to see their bylines on a printed page.

"It's still good experience in terms of understanding layout, understanding how much space you have for a story that's impacting how you have to organize the story and handle the content, especially for the students who want to have the graphic design experience," Reinhard said. "Even with the presence of newspapers online, understanding aspects of layout in terms of the home page is very similar to aspects of layout when it comes to the front page, so those types of skills I think are translatable between print and online."

At WKU, one reason print remains in play for students is to build newsroom relationships.

"I think one of the big things is the teamwork, collaborative environment and organization that exists around print that has been harder to replicate around digital," Oldenburg said. "You have an environment where the team is going to be together in the office working on a print deadline and kind of have that camaraderie."

That said, questions remain as to whether the time and effort to assemble a print news product is worth it as students look ahead to a digital-first media industry. Producing a print product is perhaps the most labor-intensive activity in media. Today's college student, who is more likely to work multiple jobs and take more classes, may struggle to have the time to give for print production. "With our students and the workloads that they have, it was hard to be able to get enough copy for all of those issues," Reinhard said.

"My best students are spending too much time designing and not enough time

reporting," Gisondi said. "My editing chiefs and everybody else are the ones spending way too much time on [designing print] instead of more in-depth projects and reporting, which I think, frankly, they might want to do more."

Meanwhile, several schools are keeping print in the mix as they innovate news products for the modern audience. At the University of Illinois, The Daily Illini's most recent print issue looked nothing like the daily newspaper that has been the anchor of its more-than-150-year history. The March edition featuring "The Best of Champaign-Urbana" was published in a glossy magazine style. Williams said it was the highest-grossing advertising revenue issue of the academic year thus far.

"We're changing how we are operating in business. We're getting out in our community. We're telling our story in a better and different way," Williams said. "This is progress. This is growth. This is energy."

Williams has approximately 200 students on staff at the Daily Illini with 27 in paid management positions. The newspaper – which has been operating since 1871 – has implemented a workflow and leadership structure where online content is the top priority, but that does not mean print is an afterthought.

"We have no choice but to be very heavily online and very fast and responsive online," Williams said. "When you think about a print product, what can you provide your community that is not just updates about what's going on, but is a product that brings a community closer together or gives people something to talk about or bond over or debate over? I think then you have something that lasts more than the day that it comes out. You have a better sell to advertisers, saying 'hey, this thing is going to be around for a month.' It's content that you can constantly engage with and you don't necessarily need to just consume it all at once."

Across the state at Eastern Illinois University, its student newspaper The Daily Eastern News, like many across the country, sends a weekly email newsletter that features stories from the previous week in a simple format delivered right to subscribers' inboxes.

"We're saying, 'hey, here's the best news over the last seven days. That's aggregating. That's what we used to do in print publications,'" Gisondi said. "I certainly miss the serendipity of opening up a newspaper and finding stories I wouldn't otherwise find, but I'm finding more and more that I'm getting that by newsletters. For me, the future is newsletters, not print."

WKU's student media offerings have expanded while print remains an integral part of a successful business model. The

The Herald, which has been in production since 1927, has moved from printing twice weekly on newsprint to a glossy newsmagazine format printed three times a semester. In 2016, following funding cuts, WKU's then-yearbook, The Talisman, could no longer be offered to students for free. Facing cold reception from students now forced to pay for their yearbooks, The Talisman became a life and culture magazine print product that is published at the end of each semester. Rounding out WKU's deep student media offerings, brand content studio Cherry Creative was established in 2018 to produce advertisements and sponsored content for clients, like specialty-themed magazines targeted to particular advertising verticals such as housing and dining. While The Talisman still receives some university funding, the three arms of WKU's diverse student media operation primarily support each other through advertising revenue.

"I sentimentally miss having the yearbook and that record of the year, but I think it also makes a lot more sense for students who want to go into media to tell a potential employer that they work on a

magazine," Oldenburg said. "I think when you say a 'yearbook,' people see some cheesy kind of old-school high school publication and not the awesome stuff that our students are doing."

Moving forward, student media advisers and faculty are continually exploring new avenues for the "awesome stuff" their students are producing.

"I don't care what the platform is for journalism – it's journalism," Gisondi said. "We're trying to convey information that's important for a community. It doesn't matter to me if it's print, audio video, multimedia – so long as it's good and people are connecting to it."

Despite the highly publicized tribulation of printed news, student media leaders share optimism for the future.

"Right now, we kind of have a media operations dream ahead of us," Williams said. "We have a very focused, clear audience. We know where they are, we know how to get to them and all we need to do is serve them."

Student newsrooms enjoy the advantage of doubling not only as local news sources but also learning labs where experimentation

is not only encouraged, but necessary.

"The people who are running student media are usually up on what's going on in the industry because we're labs," Gisondi said. "We're trying something all the time... if you're going to fail, fail big. Try something big."

Another unique element of college media that is helping students and faculty weather industry storms is a supportive, collaborative environment. National bodies, such as College Media Association and Associated Collegiate Press, as well as state organizations, run email listservs, conferences and workshops throughout the year where innovations are shared and discussed.

"One of the things I love about student media is that we are all very collaborative across the country with going through these challenges and innovations and trying new things at all of our different universities," Oldenburg said. "That's different than a lot of other industries where they would see each other as competitors. That collaboration is a big part of the innovation across the board in student media."



Digital natives in student media reluctant to give up print even when their readers already have

By Jackie Spinner

Before most college students in 2024 were born, the Pew Research Center was already reporting that young readers had turned away from newspapers.

Older readers had not fully embraced online news yet in 2002. Only a quarter of them went to the internet for their news and then only three times a week, which now seems absurdly disconnected. But young readers were getting hooked on digital news even back then.

Today, just 4% of U.S. adults between the ages of 18 and 29 prefer to get their news in print. The vast majority get news through digital devices, according to a November 2023 Pew report.

It's been years since I've seen a student with a newspaper or even a magazine. I'd probably stop and take a photo with my smartphone and post it to Instagram if I did. #blastfromthepast

Maybe that's why I find it so puzzling that student journalists, themselves consumers of digital news, have such a love affair with print. They fight to keep their paper editions even as it's been harder to justify the costs and even if their readers are now mostly engaging on social media.

At the recent College Media Association spring conference in New York, I watched students make room on a long table for the print issues they had hauled with them to share. I kept watch over the weekend to see what happened. Some advisors picked up papers. But not many students did. Most people browsed and walked away empty-handed. Meanwhile, nearly everyone at the conference was consuming news on their phones.

Jackie Alexander, CMA president, couldn't tell me how many student news outlets still have print editions. But I bet the ones that publish even once a week are getting more rare.

In Illinois, the Daily Northwestern, Daily Illini, Daily Eastern News and Daily Egyptian, where I was student editor a long time ago, are not dailies anymore. The Illinois College Press Association now ranks papers by school enrollment instead of publication frequency, although its awards competition, like many, still favors print, with multiple categories that exclude digital-only college media. That is a frustrating vestige of a different era.

The Columbia Chronicle, where I am faculty advisor, stopped publishing its weekly print paper during the COVID-19 pandemic. There was nobody on campus to read it anyway. After the pandemic, they made the decision to become a digital news operation, still publishing weekly online, with just four print issues per year. Now it's down to three a year, and the Chronicle is a digital-first media outlet, with weekly e-newsletters.

One of those three print issues is published on Valentine's Day. This past February, the "sex" issue didn't move off the racks. There are still piles of papers around campus, even though it's now mid-April.

I was commiserating recently with Martha Irvine, a longtime Associated Press journalist who is the faculty advisor at The DePaulia at DePaul University.

"It is hard for them to give up the idea of print," she told me, speaking of her students. "But we recycle so many papers."

The DePaulia is now considering going mostly digital next school year instead of printing weekly. "That will be the call of the new management team," she said.

If they are anything like my students, it will probably take some convincing on Irvine's part to pivot them away from their beloved print.

Most of the student journalists in the Columbia Chronicle newsroom will not end up working for a media outlet that has a print product. So print isn't even something that they can connect to their career aspirations. If student journalism is a learning lab, the print paper offers seemingly little in the way of practical instruction.

Yet in my newsroom, as in Irvine's, discussions around reducing or eliminating print require much diplomacy.

"Most of our readership comes from our online articles so as a publication, we've begun discussing the possibility of reducing our printing," said Alyssa N. Salcedo, editor-in-chief of La DePaulia, the bilingual sister publication of the DePaulia.

"We would like to focus on publishing a few print issues each year with our strongest pieces so we can still showcase the work of our students in that format."

For many student media outlets, production day is an in-person day, and for those student journalists who may do more reporting by email, Zoom and phone, print production offers the community I had as a student and early career journalist. Digital

production makes it too easy to work remotely.

"Print is special to college journalists precisely because it's old tech," said Michael Koretzky, SPJ Florida president and faculty advisor to OutFAU at Florida Atlantic University.

(OutFAU was one of the best designed print publications on the table at the CMA conference, so I picked up several copies to bring to our publication designer.)

Koretzky said students adore print, in part, because online looks the same.

That's probably why several of the student outlets I was assigned to critique at CMA asked me to look at their papers as soon as they sat down. Why start there? I asked. Where are your readers?

The print design is what makes them stand out, Koretzky said. "It's harder to make online design look different than print design. Learning InDesign is easier than learning CSS."

Salcedo, a first-year master's student in journalism at DePaul, said she loves creating print layouts because there's a lot of room for creativity. Students also like print because it provides a tangible showcase of their work.

"The digital or online format, however, allows us to incorporate multimedia reporting and reach our audience in different ways, so it's good to have a mix of both to ensure that students are comfortable with any format," she said.

As part of a special issue on college media, GJR talked to editors at four college papers in the Midwest to understand their attachment to print.

The Alestle, Southern Illinois University Edwardsville

The Alestle publishes 33 print issues per year: 14 in the fall semester, 14 in the spring semester and five in the summer. In 2009, the Alestle published roughly double that amount, thought it cut down the number of summer issues only a few years ago.

Dylan Hembrough, editor-in-chief at The Alestle, said the print audience is more or less the on-campus community at SIUE. "That works out to be primarily students, and we do see students reading our print issues, but there is also a disproportionately large number of staff members that read The Alestle as well, both online and in print," he said.

He said he shares the "pro-print

◀◀◀ A student journalist leaves copies of a paper at the spring convention of the College Media Association in New York City on March 16, 2024.

Photo by Jackie Spinner

Continued on next page



Student journalists work in The DePaulia newsroom at DePaul University in Chicago on April 19, 2024. The DePaulia publishes a weekly newspaper but is considering publishing in print less frequently next academic year.

Photo by Quentin Blais

sentiment for sure," though he and his staff are aware that print journalism does have a finite lifespan. "We're enjoying the time we have with it," he said. "One of my personal goals as editor-in-chief was to really lean into my creative side and come up with unique cover designs. Design has quickly become one of my favorite parts of the job."

For student journalists, print is a more "tangible accomplishment" than an online article, he said.

"It's something that a burgeoning journalist can hold in their hands, give to their family and friends, cut out articles from and keep as a tangible memory of when and where they started out," he said. "An online article just doesn't have the same appeal, even if a link is more easily shareable than a physical paper. There's something more official about a print article in many student journalists' minds, even for those who have grown up in a world where the majority of their news intake is purely digital."

◀◀◀ Student journalists at The Alestle at Southern Illinois University Edwardsville work in their newsroom.

Photo by Michal Kate Castleman

The Post, Ohio University

Katie Millard is editor-in-chief of The Post, the independent publication at the Ohio University in Athens. She is a journalism major who wants to write and report for a news organization after graduation.

The Post prints weekly, with about 3,000 copies each Thursday that are distributed to 75 news stands -- a third on campus and the rest off campus. "Our print readership is pretty high, particularly among community members," she said. Community newsstands have 100% or nearly 100% pick-up rates each week.

"Our online content is accessed more so by the student body and by readers off campus, but we also have significant pick up rates in our on-campus spaces, although not quite as high as in our off-campus stands."

While printed content is new each Thursday, The Post also publishes it online. The Post also publishes it online. Not all online content goes in print but nearly all printed content is published online.

"I believe students would be disappointed if we did not print anymore,

but the real loss would be for our community members," she said. "Living in Appalachia and one of the poorest counties in Ohio, the digital divide is a sincere issue here. Additionally, many of our community members are older and prefer to get their news from a physical paper, not online."

The Post generates about \$65,000 annually in advertising sales, which covers print costs, technology costs and staff stipends.

"This is one of the only times many of our students will be able to see their work in print, which is an amazing opportunity for students," Millard said. "Additionally, it continues to serve the community better than in an online format, and it teaches students valuable skills they may not learn in a classroom geared more toward digital journalism, like design aspects and keeping things concise to fit a word count, as well as toning images for print and visual hierarchy."

The Minnesota Daily, University of Minnesota

The Minnesota Daily, like most college dailies, no longer prints every day in spite of its name.



Student reporters work in the Columbia Chronicle newsroom at Columbia College Chicago.

Photo by Jackie Spinner

The Daily prints about four print editions per year, typically two per semester.

"I am not sure the exact date or timeline of when we stopped publishing, but I do know that it was before my time," said Editor-in-Chief Alex Steil, who has worked at the media outlet since 2021. "We have opted for more digital newsletters, instead, including a daily letter edition as well as weekly sports and A&E editions."

Steil, who is currently double-majoring in music and political science with a communications minor, plans to go to law school and then pursue a career in public policy.

The Columbia Chronicle, Columbia College Chicago

Olivia Cohen started working at the Chronicle in August 2021 after the media outlet had already stopped printing weekly because of the pandemic. In fact, it didn't print at all for 18 months. It started again

the semester that Cohen joined, with a new print schedule of four issues per year.

"We will continue our robust online presence, but we're also excited to continue our print tradition," the Chronicle editors announced at that time. "The Chronicle that you can hold in your hand is back."

Cohen, a journalism major who is graduating this year, said one reason why student journalists at the Chronicle love print is because it reinforces community.

When the Chronicle published weekly, students, and their advisor, would stay late into the night every Friday. At a recent Chronicle reunion for our 50th anniversary, students talked about those Friday nights. It was a core memory of their time at the student paper.

"When the Chronicle is working to go to print, we are all together in the newsroom, working towards a common goal which I believe really bonds our little newsroom community and even helps student

journalists feel like they are contributing to journalism as a whole," said Cohen, who just accepted a coveted Report for America position at a local newspaper in Iowa. "Hitting publish for digital stories is one thing, but it doesn't compare to holding your words in your hands."

But it's more than that.

"Students love print because I feel like the heyday of print is the golden age of journalism and that era this generation of incoming journalists were not a part of," she said. "So hanging on to print is one way to feel like you are a part of the power of journalism. I also think that students/younger people are in a phase of nostalgia for things they weren't even really a part of such as Polaroid cameras, vinyl records. I think that print newspapers fall into that same idea for student journalists."



Iraqi men display their purple-dyed fingers after voting in the Iraqi elections Jan. 30, 2005.

Chicago veteran war photographer launches 'Burn Pit' documentary project on Instagram

By Alina Pawl-Castanon

Photographer Bill Putnam was searching palm groves along the arching Tigris River south of Baghdad in 2004 when the Iraqi soldiers with his U.S. Army unit started to drop. The sun was harsh and the air was thick with humidity that July day, 20 years ago. Patrolling under the weight of 70 pounds of kit, body armor and weaponry created the perfect environment for heat exhaustion. Putnam pointed his camera.

The black and white photo he made is a swirl of blurred motion. The Iraqi soldier is pulled onto a stretcher by firm hands surrounding him. It wasn't until Putnam returned to the U.S. military base later that day that he learned it was over 140 degrees Fahrenheit.

The image is part of "The Burn Pit: Iraq, 2004-2006," a documentary project

consisting of roughly 250 digital and 150 film photos that Putnam shot/took as an Army photographer and later as a freelance photojournalist in Iraq. Putnam is one in a generation of journalists whose time in Iraq and Afghanistan remains a defining moment, even two decades later.

It was even more so perhaps for Putnam, a U.S. Army veteran who returned to Iraq and then later went to Afghanistan as a civilian documenting war.

Now, 49, Putnam works in public affairs in the Chicago field office of the U.S. Department of Veterans Affairs. He wanted to make clear the documentary project is not tied to his current job with the VA.

The images that are part of his collection, which launched Under the username @the_burn_pit on March 10, consist of the everyday

environments and humanity within a country at war. Over the span of the next two years, Putnam intends to share his project, one photo at a time, on the 20th anniversary that each shot was captured.

The Burn Pit is not only a project of personal healing but also a reminder of the legacy of the Iraq war and those who witnessed it.

"It's on the forefront of my mind. It's still there," Putnam said. "I just want people to see these images and realize that we were there, and we still are."

Putnam began his military career as an active duty soldier in the Army in 1995, transitioning into the role of a public affairs specialist in 1999. He was deployed to Kosovo in 1999 and 2001. Columnist and former

Continued on next page



Iraqi and US soldiers move a passed out Iraqi soldier on to a stretcher after he passed out from dehydration during Operation Tombstone Pile Driver south of Baghdad July 15, 2004. The operation was a cordon-and-search of a farming district designed to flush out insurgents and find weapons caches reported to be in the area. Temperatures that day reached 140 F.

Lieutenant Colonel Peter Molin, who served as an executive officer of an infantry battalion Putnam worked with during his second deployment to Kosovo, appreciated the emotion and intimacy within his photography.

"I think his heart is in the right place. He's passionate about soldiers and helping soldiers," Molin said. "He's gotten a fair amount of acclaim for his pictures, but I think he deserves even more."

In 2003, Putnam worked as a specialist at the Pentagon, where he observed the initial invasion of Iraq. It wasn't long after that Putnam was deployed to join his unit.

"It was a weird dynamic to be in because there was conflict, like gun fights and IEDs," Putnam said, referring to improvised explosive devices or homemade bombs. "But on the same day you could go out and play soccer and hand seeds out to farmers."

The project is not meant to be political, Putnam said. But there is ongoing legislation and lawsuits surrounding the burn pits, the open-air garbage piles where waste was burned with jet fuel around military bases in Iraq and Afghanistan. In 2021, the VA formally recognized several respiratory conditions and rare cancers linked to the largely incinerators with the PACT Act.

Putnam himself was affected by the burn pits when he was stationed at Forward Operating Base Falcon, a downwind base in southwest Baghdad.

Journalist and former NPR correspondent Sean Carberry said that the title of the project will hit home for a lot of veterans.

Carberry met Putnam at a memorial service for mutual friend NPR photojournalist David Gilkey in 2016. He described Putnam's work as powerful and immediately recognizable.

"The expressions, actions, emotions and circumstances are all vividly conveyed," Carberry said. "You can see when someone cares about the people that they're covering. There's a strong humanity to his work."

Photography as a medium is in a state of constant reinvention, as technology paves the way for transformative iterations to take place in a way that wasn't possible 20 years ago. Putnam was one of the first war photographers to embrace an iPhone in the field, to use the device in a purposeful way to make images and art.

Gregory Foster-Rice, an associate professor who teaches photo history at Columbia College Chicago, described Instagram as an ephemeral forum for publication. While artists may find social media as a very accessible space for their work, it's also very disposable in the way that the algorithm is designed.

"Using Instagram is that idea of going straight into the new current channel of transmission, which is the internet," Foster-Rice said. "They're leaning into the present moment of how people experience



A man stares at an American soldier with a Centurion Company, 2nd Battalion, 1st Infantry Regiment patrol in Mosul, Iraq, Oct. 3, 2005. A few minutes before this photo was made two cars pulled around a corner in front a patrol from the company. The cars split off in two directions at high speed and the patrol gave chase to one of them. The civilian started evasive maneuvers -- zig zagging to kick up clouds of dust and driving through crowds of kids -- when the patrol engaged him an M2 .50-caliber machine gun. A round hit the driver in the head and killed him instantly. Soldiers found wires, crimpers and soldering equipment inside the deadman's car. A few minutes after the shooting and a couple of blocks away, a roadside bomb exploded under one of Centurion Company's patrols from the direction and area the two cars first approached from.

photography."

As Putnam's deployment to Iraq was ending and it was time to return home, he ran into Time magazine Bureau Chief Michael Ware, who wrote a credential letter to help him return overseas.

"I went back six months after I came home. My friend had just had his first kid, a week after I got there. I didn't meet them until they were nine months old."

Putnam did the math. From 1999 to 2013, one-third of that time was spent in numerous combat zones, starting when he was just age 24. Armed with an M-16, a DSLR and film camera, Putnam captured the world of joys and hardships around him. He did not take into account that his time overseas as an observer and soldier would be a double-edged sword.

Carberry recognized the conflicting responsibilities that Putnam faced as a combat photographer, describing his work as not only a great challenge but an even greater accomplishment to capture his environment with honesty.

"His job was essentially to pull a different trigger, to snap a camera instead of shooting a gun," Carberry said. "It's a much tougher spot

to be in because you're in uniform."

Within the intensity of these environments of conflict, where does the healing begin?

Carberry said there is no question that The Burn Pit was a part of Putnam's healing process, which veterans of Iraq and Afghanistan, like those from Vietnam and even older conflicts, know is a life-long process. War is not something people get over.

For some people within the world of combat journalism, the healing never happens at all, in part, because of their commitment to keeping the stories alive but also because sitting still means processing the events that they had witnessed. Consumers of Putnam's images will have various reactions based on their relationship to the moment. For Putnam, the moment is deeply embedded. It is personal.

He said the healing journey starts with bits and pieces. "It's always on my mind in some way. A part of healing is acknowledging it, but also trying to not let it envelop me entirely," Putnam said. "I was lucky that I managed to get through it all alive. There are people I know who are dead, or broken mentally. Somehow I landed on my feet. Stupid luck on my part."

Disgraced Illinois Gov. Rod Blagojevich wants his prosecutors jailed

By William H. Freivogel

Former Illinois Gov. Rod Blagojevich told an ethics class at Southern Illinois University Carbondale last month that he was the victim of an establishment “trying to bury me and bury the truth...The whole thing was a political prosecution.”

He wants retribution. He told the students he hoped to see “everyone who framed me go right the fuck to jail.”

The House impeached Blagojevich 114-1 in 2009. The Senate removed him and barred him from ever holding office in Illinois, voting 59-0. Famed federal prosecutor Patrick Fitzgerald charged him with multiple pay-to-play crimes and a jury convicted him. Judge James B. Zagel sentenced him to 14 years in prison, saying Blagojevich has caused an “erosion of public trust in government.” Zagel died last year.

At one point Blagojevich publicly apologized. “I was the governor and I should have known better.” But there were no apologies in his talk to the students.

Blagojevich blasted “weaponized prosecutors acting as political hit men.... When you don’t go with the establishment they will destroy you,” he maintained. He described the establishment as the “lobbyist-industrial complex and military-industrial complex” working in conjunction with the media.

But he’s grateful he was the “recipient of a miracle.” He called Donald Trump the “instrument” of the miracle. “That my life intersected with Donald’s was the hand of God,” he said of the man who commuted his sentence in 2020 after he served eight years.

Blagojevich made the remarks earlier this month in a media ethics class taught by Molly Parker, an investigative reporter for Capitol News who is a fellow at ProPublica and assistant professor in SIU’s School of Journalism and Advertising.

Through much of the hour-long question and answer session on Zoom, a Blagojevich held forth with the gregarious, cheerful banter he often displayed on the campaign trail. He made sure to ask each student’s name and addressed each by



Illinois Gov.-elect Rod Blagojevich signs autographs surrounded by a sea of supporters in Springfield, Illinois, during an inauguration barbecue at the State Fairgrounds on Sunday, Jan. 12, 2003.

Photo by AP Photo/Seth Perlman via WBEZ

their first name as he concluded each of his often lengthy answers.

Blagojevich told the SIU students he was afraid his obituary would start with the statement picked up on government wiretaps about how he handled the replacement of the Senate seat that Barack Obama vacated after he was elected president in 2008.

“I’ve got this thing, and it’s fucking golden; I’m just not giving it up for fucking nothing,” he was recorded saying.

Blagojevich told the class he had not been talking about selling the seat, just getting a political advantage for it. He intimated that Obama and his aides knew what he was doing – hastening to add that Obama did nothing wrong, just as he claimed he hadn’t.

He complained that Judge Zagel had kept him from playing portions of the wiretaps that he said demonstrated he was engaging the usual political horse-trading, not corruption.

In his eight years in prison he pulled together a rock band - G Rod and the Jailhouse Rockers - worked out until he could bench press 180 pounds and read the Bible every day. He said he knows all eight verses of Jailhouse Rock. “I had the years to learn them,” he joked.

He attributes his “miracle” release from prison to his daily prayers and a 2010 appearance on Trump’s *Celebrity Apprentice* show in which he became acquainted with the president-to-be. Trump told a disappointed Blagojevich at the time that he had “great respect for your tenacity” but fired him anyway.

“Trump is actually a kind guy.”

Blagojevich told the SIU students. “He was kind to my little girls,” he said.

Nevertheless he said he had to guilt trip his girls into voting for Trump in 2020. Asked how he and his family adjusted to his return, he said, he sometimes had trouble understanding his daughters, who grew up while he was in prison. “I can’t get them to kiss me.”

Blagojevich helped inmates on their legal appeals while in prison. “We have a system of justice that does great injustice,” he said. “Joe Biden was an architect of the infamous 1996 crime bill and [Sen. Richard] Durbin voted for it,” he said, repeating an attack Trump has made about Biden recently as he has talked about retribution against prosecutors. Blagojevich said he has kept in touch with Trump.

“I feel blessed, he added. “Those were ugly dark years [in prison] but I came of them stronger....I feel so much closer to God, benefitting from reading the Bible...I’m giving myself marks for being a bad ass and never giving into those guys.”

(For this reporter, watching Blagojevich banter with the students was a reminder of a day 22 years ago when a then-young Blagojevich walked into the St. Louis Post-Dispatch editorial meeting room seeking the paper’s endorsement for governor. He immediately named the starting lineup of the 1964 World Champion St. Louis Cardinals, warming up the baby boomers he was charming. We wrote an endorsement editorial for Blagojevich’s Republican rival, Attorney General Jim Ryan - an unexpected choice for the liberal paper.)



A look at the solar eclipse

Photos by Maryam Azadani, Kaelah Serrano and Lukas Katilius

More than 50,000 spectators descended on the city of Carbondale, Illinois, to witness the much-anticipated total solar eclipse of 2024. Carbondale was in the path of totality for this astronomical event.

Karla Berry produced the livestream show that is part of an SIU NASA-funded project called Solar Steam. This project grew out of the work that a number of people at SIU did with some people at NASA in 2017 during the last eclipse when Southern Illinois was also in the path of totality. The Solar Steam project was proposed and formulated over the last few

years to tell the story of the sun. "Therefore, it is solar steam and heliophysics, which is part of NASA's Helio big year, which goes through for another year or two," Berry told GJR. "The Heliophysics Big Year, a celebratory event by NASA, is named that because the sun is coming into solar maximum."

In Chicago, at the other end of the state, the eclipse peaked at 93.9%. Office workers, students and visitors to the city gathered in public parks and other open spaces to watch. Although the sky never fully darkened like it did in the path of totality, a

breeze blew and the sun mostly escaped behind the moon, casting a midday shadow similar to a passing storm cloud.

The total eclipse, which crossed North America over Mexico, the United States and Canada, occurred further south of Chicago.

The last solar eclipse was in 2017, though it traveled on a smaller path than what was predicted for the 2024 eclipse. According to NASA, this year's totality lasted longer.

Azadani reported from Carbondale, and Serrano and Katilius reported from Chicago.



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1 People watch the solar eclipse on the campus of Southern Illinois University Carbondale on Monday, April 8, 2024.

Photo by Maryam Azadani

2 More than 50,000 spectators descended on the city of Carbondale, Illinois, to witness the much-anticipated total solar eclipse of 2024. Carbondale was in the path of totality for this astronomical event.

Photo by Maryam Azadani

3 Southern Illinois University Carbondale is home to a NASA-funded project called Solar Stream.

Photo by Maryam Azadani

4 Students share protective glasses to view solar eclipse in Grant Park on Monday, April 8, 2024. Classes took trips a groups to meet in Grant Park for a watch party co-sponsored by the Chronicle and the Science and Mathematics Department.

Photo by Kaelah Serrano

5 Observers experience the total eclipse at Southern Illinois University Carbondale on April 8, 2024.

Photo by Maryam Azadani

6 A group of Chicago Police Department officers watch the solar eclipse as they stand near East Roosevelt Road on Monday, April 8, 2024.

Photo by Lukas Katilius

7 Annie Fauls, academic scheduler for the School of Liberal Arts and Sciences at Columbia College Chicago, uses cardboard with a square cutout and aluminum to reflect the solar eclipse onto paper in Grant Park on Monday, April 8, 2024. The pinhole cameras were made by faculty in the Science and Mathematics Department, which co-sponsored a watch party with the Columbia Chronicle.

Photo by Kaelah Serrano

Kansas journalists remain fearful months after raid of Marion County Record

By Olivia Cohen



Eric Meyer, editor-in-chief and publisher of the Marion County Record, talks to student journalists at ICPA conference in Chicago on Friday, Feb. 16, 2024.

Photo by Christalyn Barker

Five months after police raided the Marion County Record in Kansas, drawing international media attention, newsrooms across the state are still reeling from the unprecedented seizure of cell phones and computers.

The Aug. 11 raid on the newspaper's offices was unusual because it involved multiple agencies and included a search of the publisher and editor's home. Such raids do not happen often and generally do not happen on the scale of the one in Marion, a town of 1,900 people about 150 miles southwest of Kansas City, Missouri.

"The raid was highly unusual, and that is what made it so shocking when the news broke and chilled newsrooms across the country," said Lena Shapiro, director of the First Amendment Clinic at the University of Illinois College of Law.

Surveillance video captured agents inside the home of Record editor and publisher Eric Meyer, which he shared with his 98-year-old mother. Joan Meyer, who also worked at the paper, died the next day of cardiac arrest.

"Can you imagine what happens if they're able to do this and nobody challenges it and nobody hears it?" said Meyer, who delivered the keynote address on Feb. 17 at the Illinois College Press Association conference in Chicago. "We've already seen that the bullies don't stop until they get to a point where it goes over the edge of something."

The Colorado Bureau of Investigation is now investigating as well. The Kansas Bureau of Investigation reportedly asked the Colorado Bureau to join the investigation to give an unbiased view. News reports have found that the Kansas Bureau of Investigation knew about the raid before it occurred.

"I believe the raid has produced a chilling effect on investigative journalism in Kansas," said Emily Bradbury, executive director for the Kansas Press Association. Until the bureau finishes its report, "we are all doing our jobs while looking over our shoulders."

The raid involved a beef between the newspaper and a business woman seeking a liquor license from the city. Police Chief Gideon Cody signed off on the raid maintaining that the newspaper's search of the Kansas Department of Revenue's website amounted to identity theft and a computer crime.

But the newspaper and the paper's attorney contend Cody was trying to find out what the paper had from his past. Cody left his job as a captain of the Kansas City Police Department while under investigation for making insulting comments to a female officer. Cody took the chief's job in Marion at lower pay. During the August search, officers found documents relating to Cody's alleged actions on the Kansas City Department. Last September the Marion City Council suspended Cody and he resigned a week later.

Shapiro said the Federal Privacy Act

makes it illegal for law enforcement officers or government officials to search a newsroom in connection with a criminal investigation and that the law generally requires the police to proceed using a subpoena, rather than a search warrant, when it seeks information from a reporter or news organization, to help prevent the type of raids that took place in Marion.

"That procedure enables the newspaper to challenge the demand in court before having to comply," Shapiro said. "While the law contains some narrow exceptions that permit searches in some extraordinary circumstances, none applied in the Marion case."

After news broke of the August raid, more than 30 news and press freedom organizations condemned it.

This was "arguably the biggest press freedom story of the year," said ICPA's Immediate Past President Chris Kaergard, who is also a professor in the Communication Department at Bradley University.

Meyer said the outpouring of support was "just amazing."

Despite the raid, Meyer said they would not hold the publication of their paper, with the headline "Seized, but not silenced." It has continued to report on the fallout.

"Come hell or high water, the paper is coming out. It took us two all nighters to give that paper out but we did it at least," Meyer said. "The key is not to give in."

Meyer said keeping public officials accountable is why journalists "do journalism."

"This is why we do journalism," Meyer said. "To challenge public officials because when does it stop? It is important to make sure we have a voice."

Maddie Marr, a sophomore mass media and public relations major at Illinois State University, said it was "motivating" to hear Meyer's story at the conference, which drew college journalists from across the state. "It made me motivated to just keep writing," Marr said.

ISU senior journalism major Emma Bratt said she appreciated that Meyer spoke to issues that continue to be relevant to journalists.

Meyer "gave a lot of insight into real-world problems within journalism," Bratt said, adding that she will work to apply what Meyer taught into her own work.

Overall, Meyer said to not underestimate the power of local journalism.

"We are the plankton feeding the whales," Meyer said.

Riverfront Times founder steps into race for Congress in Missouri

By Don Corrigan

Ray Hartmann often jested that he fought his way off his native “mean streets of Ladue” to become an alternative newspaper tycoon. He dropped that line after selling the Riverfront Times in 1988 to New Times Media.

Even after he sold the popular weekly after a quarter century of column writing and muckraking, Hartmann has remained a St. Louis media staple. His opinion-making found a periodic presence in the RFT, St. Louis Magazine and on TV’s Donnybrook show on the Nine Network.

Perhaps it was fitting that Hartmann announced his candidacy for the 2nd Congressional District on a March edition of the often noisy KETC-TV program. He has been a regular on the political roundtable, known as Donnybrook, for 37 years.

Hartmann filed for the August Democratic primary with the intention of taking on incumbent Republican Ann Wagner in the fall. Both candidates are likely to get past their party primaries on Aug. 6.

Wagner presents a formidable challenge for Hartmann in the conservative district. U.S. Rep. Wagner, R-Ballwin, first won the seat in 2012 and easily won re-election in 2014 and 2016. Wagner’s share of the vote fell to 51.2% in 2018 and 51.9% in 2020, before rebounding to 54.9% in 2022.

Redistricting – some critics say “gerrymandering” – added the staunch conservative counties of Franklin and Warren to the reliably Republican district. Even so, Wagner represents the only district in heavily red Missouri decided by a margin of less than 12 percentage points in 2022.

Does that margin present an opening? Missouri political observers say: “There’s no way!” Journalist friends say, off the record, that only cognitive dysfunction can explain what Hartmann is doing.

They ask: Why would Hartmann give up his distinction as the William Randolph Hearst of alternative newspapers, only to become just another sacrificial lamb for Democrats in a proven right-wing Republican district?

These same journalist friends ask why Hartmann wants to move to the dark and seamy world of politics after a notable career in journalism. During his tenure at the RFT, Hartmann’s paper won dozens of awards from the Missouri Press Association, along with the coveted Gold Cup.

The dark side?

“The dark side?” asked Hartmann in disbelief. “I really don’t see politics as any more the ‘dark side’ than journalism. “I think journalists and politicians are all looked upon as bottom feeders.”

“In fact, I used to think that telemarketers were in the worst profession,” added Hartmann. “But after thinking about it, journalists, politicians and telemarketers all kind of doing the same things at one time or another.”

Hartmann is proud of his journalism credentials and his non-partisan bona fides early in his career. After high school, he signed on as an undergrad with the University of Missouri and its prestigious J-School, making his mark there in the early 1970s.

“I was at Mizzou eight semesters and six of those semesters I was managing a newspaper,” said Hartmann.

Those semesters included reporting and editing stints with The Maneater and the Campus Courier. Right after graduation, Hartmann said he visited 20 newsrooms in 15 days to ask for a job.

“I just went into newsrooms with my story clips and didn’t even make an appointment,” recalled Hartmann. “It took me a while to realize that it doesn’t really work this way, but I finally got a job covering stories for a newspaper in Albany, New York.”

Hartmann worked in the New York state capital for 14 months before coming back to Missouri in 1975 to audition as a speech writer for Republican Christopher “Kit” Bond, who was running for governor against Democrat Joe Teasdale.

“Bond gave me three topics to write speeches on and I pulled an all-nighter and handed him three speeches the next morning,” said Hartmann. “I don’t know how good they were, but he hired me.”

Hartmann said he worked for Bond for 18 months, rode in a parade for Republican Bob Dole and later voted for Republican Gerald Ford in 1976. He said those past experiences show he can be bi-partisan, even if it was a somewhat distant past.

Hartmann added that his would-be Republican opponent in 2024, Ann Wager, is “a nice lady” and he hopes that any political contest between the two of them will be courteous and civil.

Courteous and civil?

Wagner may be “a nice lady,” according to Hartmann, but once he begins to talk about campaign issues, the gloves quickly come off. Hartmann, now in his early 70s, began the RFT in 1977. The spirit of the old muckraker is hard to suppress.

“Wagner’s flip-flopped on so many issues – and she flip-flopped on supporting Trump,” said Hartmann. “When the Access Hollywood tape came out with Trump bragging about grabbing women’s privates, she called him a ‘reprehensible predator’ that she could absolutely not support.

“Three weeks later she flip-flopped and announced her support for him for president in 2016. What happened in three weeks?” asked Hartmann. “It’s not easy to reconcile for someone crusading against sex trafficking.”

Hartmann also goes off on Wagner for “flip-flopping” on her support of Republican House Speakers this past term. He noted that U.S. Rep. Jim Jordan of Ohio has been discredited with accusations that he failed to protect athletes on the Ohio State University wrestling team when he was the team’s assistant coach in the 1980s and ‘90s.

Former OSU wrestler Mike Schyck is one of the hundreds of former athletes who say they were sexually abused by school doctor, but their complaints to Jordan went nowhere. Schyck has said Jordan has no business as a U.S. House Speaker or a congressman.

“When Republicans were having their war over who was going to be House Speaker, Wagner was supporting Steve Scalise,” recalled Hartmann. “And when she was asked whether she could support Jim Jordan for Speaker, she said: ‘Oh, hell no!’

“There are a lot of good reasons to say ‘hell no,’ given Jim Jordan’s past and his record at Ohio State,” said Hartmann. “But then she flipped and supported him. The woman is absurd.”

At home: constituent issues

Closer to home, Hartmann goes after Wagner for failure to support the bipartisan infrastructure bill that is bringing jobs to Missouri, and for her opposition to compensation for victims of radioactive contamination in St. Louis’ North County.

Hartmann shows only brief hesitation before likening Wagner to the infamous Queen Mary Antoinette. The French monarch is known for her response upon being told that her starving peasant subjects had no bread.



Ray Hartmann (Screenshot from PBS 9 "Donnybrook" on March 14, 2024)

She sneered that the peasants could “eat cake.” The famous anecdote has been cited as an example of Marie Antoinette’s uncaring obliviousness to the conditions and daily lives of her subjects.

“Wagner wouldn’t vote for infrastructure legislation that helps Missouri citizens, because she says she lives by principles of: ‘How are we going to pay for it?’ Everything has to be paid for,” Hartmann said.

“She says she is all about fiscal responsibility,” added Hartmann. “Well, she didn’t worry about the deficit – and how we’re going to pay for it – when she voted for Trump’s trillion-dollar tax cuts for billionaires.”

Hartmann also notes how Wagner initially opposed compensation for victims of radioactive contamination in North County. Her Republican colleague in the Senate, Josh Hawley, supports the families with illnesses blamed on local companies who helped construct atomic bombs.

“I’m not a fan of Josh Hawley, but he was right to blast her for not supporting the people suffering in the Coldwater Creek area,” said Hartmann. “This is a terrible problem that’s been known about for a long time. I published stories about it in the RFT in the early 1980s.”

“Wagner turned her back on North County, and then backed off and flip-flopped when Hawley blasted her for not supporting them,” said Hartmann. “She doesn’t get to just back off on her comments not supporting our citizens in North County.”

Hartmann said Wagner once again

“proved to be the Mary Antoinette of Missouri,” and he will call her out on it. He said she has a reputation as a newsletter politician, who won’t debate and won’t have townhall meetings.

Hartmann said he is unwilling to reveal his political strategy for the House race, but a campaign slogan may be developing here. He insisted that Wagner is the Mary Antoinette of women’s health issues in the state.

Women’s reproductive health

Reproductive choice has been illegal in Missouri since the U.S. Supreme Court overturned the 1973 Roe v. Wade decision that recognized a constitutional right to abortion. Hartmann said Wagner enabled that decision by supporting a “Trump Court.”

“I’ll be out in front of people on the issue of women’s health with no ambiguity,” said Hartmann. “I’ve been pro-choice for Missouri much longer than Ann Wagner has been pro-life.”

“The biggest speech in my career was when I spoke on reproductive freedom alongside Mel Carnahan at the State Capital in Jefferson City,” said Hartmann. “I spoke to 10,000 people on Republicans going too far in interfering with women’s health choices.”

Democratic gains in midterm elections in 2022 have been attributed to anger over the June 2022 court decision overturning the nationwide right to an abortion. Every state with a pro-abortion issue on the ballot since Dobbs has seen reproductive rights affirmed, even in red Kansas and Ohio.

Hartmann said he expects intense interest in the abortion issue this year in Missouri, especially if activists are able to collect enough signature to get a constitutional amendment legalizing the procedure on the August or November ballot.

“This is the first general election since the Dobbs decision overturning Roe v. Wade, and I would most definitely vote, if given the opportunity in Congress, to restore nationally Roe v. Wade protections for women.”

Hartmann had only praise for previous Democrats who have challenged Wagner and gone down to defeat. He said it’s tough to win with one-party rule in state government and with majority of the Missouri Congressional Delegation being hard-right.

The first-time candidate said he hopes name recognition from his decades on TV’s Donnybrook will give him a leg up in the 2024 race. He said he has had his say on television, and he wants to hear what district residents have to say.

“I plan on going door-to-door in places like Eureka, Pacific and Washington and asking people what they think – what their views are” he said. “I am going to listen to what they have to say,” Hartmann explained.

“I’m an optimist. I think I can win,” added Hartmann. “I listened to a lot of people say that I couldn’t start a St. Louis newspaper when I was 24. I did okay with the RFT. Running for Congress is the closest I can get to that feeling I had when I was 24 – and being told it can’t be done.”

Pollster has eyes “wide open” on Hartmann candidacy

By Don Corrigan

Incumbency is almost insurmountable. That’s a truism in America and Missouri, according to Ken Warren, a political science professor at St. Louis University with decades of expertise on polling, democracy and politics.

He’s not optimistic about Ray Hartmann’s chances in his quest to unseat U.S. Rep. Ann Wagner, R-Ballwin. Pollster Warren has been a frequent guest on Hartmann’s KTRS radio show and counts him as a friend.

“Beating an incumbent is very difficult,” said Warren. “On average, 93% of incumbents win reelection. Sometimes that percentage is even higher. I think Hartmann thinks he has a shot because she has been a silent, missing representative.”

Warren said Wagner has been a risk-adverse politician during her six terms in office. He said her “rose garden” strategy has worked so far. She has avoided controversy and visibility.

“Wagner will frustrate Hartmann by ignoring him, just as she has done to other challengers,” noted Warren. “It demeans a challenger to ignore them. It implies the challenger is not worthy of their attention.

“Incumbents most often ignore their challengers because they do not want to raise their name recognition and give them credibility as a serious candidate,” Warren explained.

Hartmann also faces an uphill battle because Wagner’s district is justifiably rated as a safe district. Not as safe as some are, but pretty safe with many more Republicans than Democrats.

“However, you cannot predict with absolute certainty election results,” said Warren. “You do not know what may develop. Wagner’s district is the most vulnerable one in the state. All other districts are safer for the incumbent.”

Warren said Hartmann does have two advantages previous Democrats have not had in their failed campaigns against Wagner. He has name recognition and is a familiar face on television. He also has plenty of experience talking politics.

“Hartmann has name recognition, but maybe not as much as he thinks,” said Warren. “He has been on Public TV a long time, but this venue has a limited following.

“As a pollster, I can tell you that if I asked: ‘Do you know who Ray Hartmann is?’ – a significant percentage would say, ‘No.’ Wagner probably has better name recognition, but polls show about a third of voters can’t name their own U.S. Representative.”

Warren objects to those who say Hartmann is “going to the dark side,” or sully his credentials as a journalist in getting into the muck and mire of political jousting.

“I don’t see any significant transition from his journalistic past with his political future,” said Warren. “How can he lose any objective credentials when he’s been much more of an opinion columnist than a reporter? His pieces for RFT, Raw Story and more are opinion pieces.

“But I would add that he will not become the newest member of ‘the squad’ in Congress if he gets elected. He is not that liberal. In fact, some of his positions are very moderate on many issues, as he has expressed on TV’s Donnybrook.”

If Hartmann suffers the same fate as other Democratic challengers on Nov. 5, 2024, in his attempt to unseat Wagner, Warren said he believes he will likely return to journalism in some fashion.

“Journalism is in his blood. He writes good columns, devoting a lot of research to them. But print journalism is like the horse and buggy,” said Warren. “Good-paying jobs are evaporating and AI poses threats to all journalists.

“Ray is getting old. I’m not sure he would reenter journalism as a career,” observed Warren. “Some of the media outlets he’s written for have gone belly up. But he will likely dabble in journalism for the rest of his life.”

Of course, if Hartmann manages the “impossible” in defeating incumbent Wagner, the past publisher of the RFT will join one of the most represented careers in the U.S. Congress after lawyers: journalists.

Tackling the crisis of local journalism in Illinois

By Dong Han

Local journalism is in a crisis. Across the nation, local news outlets are disappearing, and media coverage of community events and local public decision-making is shrinking dramatically. According to research by the Medill School of Journalism at Northwestern University (<https://localnewsinitiative.northwestern.edu/projects/state-of-local-news/2023/>), 203 counties in the United States are now “news deserts,” i.e., without any source of local news. And that number threatens to grow.

The reason for the decline of local journalism is complicated. New technology plays a big role, not only because social media feed people with “free” and “fast” news, but also that advertising dollars are siphoned off by new marketing strategies in the digital environment. In the “traditional” model, news content attracts audience, which are then sold to advertisers to fund the media. But in the age of “big data,” targeted marketing based on tracking and personal data promises more efficient use of advertising spending than taking a pot-shot at faceless news audience. It is widely known that Google’s advertising revenue is negatively correlated with that of the news media. Does Google provide better news? No. But it provides “better” audience to advertisers.

During this seismic change in news production and distribution, different media suffer in varying ways. Media organizations that operate nationally or in affluent news markets may have a larger “buffer zone” and are able to transform, downsize and adapt. Smaller and community-based media, on the other hand, are cornered. Take Illinois as an example. The Chicago Tribune lost more than four fifths of newsroom staff from 2006 to 2022 but as a paper still survives (<https://muse.jhu.edu/article/882956>), while many smaller outlets are not as “lucky.” In fact, so many of them are gone that 33 counties in Illinois today have only one local news source, and five have none (<https://localnewsinitiative.northwestern.edu/projects/state-of-local-news/2023/>). All of these five “news deserts,” Pulaski, Alexander, Perry, Hamilton and Edwards, are in the Southern Illinois area and are

among the poorest counties in the state. The crisis of local journalism, at least in the case of Illinois, is closely tied to socioeconomic situations.

A number of states across the nation have moved to tackle the crisis. In Illinois, the Local Journalism Task Force, chaired by State Senator Steve Stadelman and consists of people from the industry and the academia, worked a full year (2023-24) to analyze the situation and propose policy solutions. Earlier in 2024, Stadelman introduced two bills in the Illinois General Assembly, the Journalism Preservation Act and the Strengthening Community Media Act, which incorporate most of the policy recommendations from the Task Force.

The report generated by the Local Journalism Task Force (<https://dceo.illinois.gov/content/dam/soi/en/web/dceo/events/local-journalism-task-force/local-journalism-task-force-final-report-january-2024.pdf>) provides an overview of local journalism decline in Illinois with ample data and examples. Since 2005, more than a third of Illinois newspapers have disappeared, and journalism jobs in newspapers have decreased by 86%. The Chicago area ranks among the highest in the U.S. with regard to the loss of news sources per capita. Outside of Chicago, four more counties are likely to lose their only news source in the next five years and become new news deserts. Journalism as a profession is under threat when profit-driven decision-making always results in layoffs. In 2023, when Paxton Media Group bought the Southern Illinoisan newspaper in Carbondale, all of the paper's journalists lost their jobs (<https://capitolfax.com/2023/12/08/southern-illinoisan-newspaper-journalists-say-goodbye-to-their-community-after-new-owner-fires-all-employees/>).

The report and the proposed legislation contain a number of policy recommendations to support local news organizations and journalism jobs. The Strengthening Community Media Act includes a broad array of initiatives. For example, it requires state agencies to spend at least half of their advertising spending with local news outlets. It provides tax incentives to local media to hire journalists. In addition, it offers scholarships to journalism students who work in local media for at least two years after graduating from Illinois public universities. The Journalism Preservation Act, on the other hand, focuses on big techs and asks them to pay local news media for carrying their news stories.

The pros and cons of these policy recommendations have been extensively debated at Task Force meetings. Many of these proposals are not quick cures, and their implementation cannot go without vigorous oversight. For example, whether and how governmental advertising dollars "set-aside" may encroach on editorial deliberations is a legitimate concern, although the severity of the problem should also be assessed in the context of private advertiser' influence on media production. Payroll tax credit for hiring journalists will provide incentives to invest in news production, but how much incentives are needed is not entirely clear and perhaps needs to go through trial-and-error. In addition, regulatory moves that go against the market status quo will always be an uphill battle against beneficiaries from existing arrangements, and to wrench money from a tech behemoth is not easy. In Canada, the Online News Act in 2023 requires big tech to pay news outlets for content. Google obliged but Meta blocked all news stories on Facebook and Instagram to avoid pay (<https://www.bbc.com/news/world-us-canada-67755133>), a severe blow to local media outlets who rely on large platforms to attract audiences. Similar legislation in Illinois is certainly worth a try, but how it will unfold is not preordained.

As noted in the Task Force's report, the crisis of local journalism is a democracy problem. A robust journalism sector is critical for an informed citizenry and democratic self-governance. And any potential threat needs to be dealt with as early as possible and before more harm is done. With profound changes

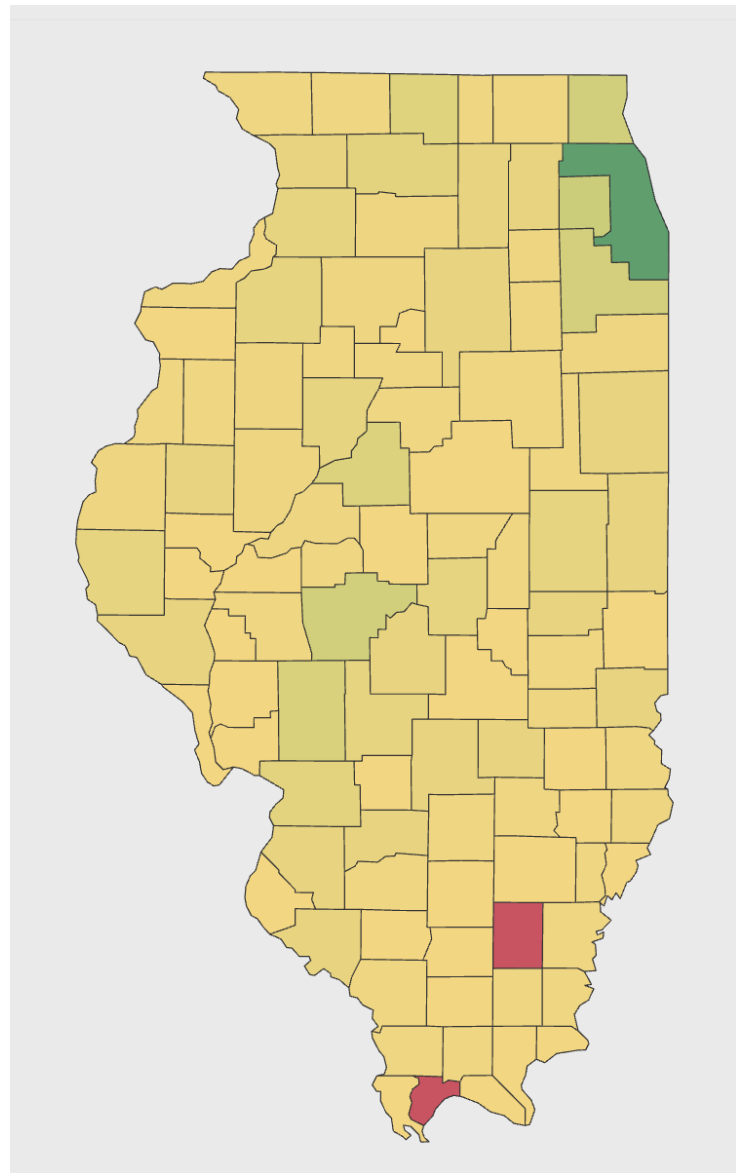


Illustration of Illinois news deserts from The Expanding News Deserts

in the political economy of news production, local journalism in the U.S. and Illinois is faced with an unprecedented challenge. The work of the Task Force and the proposed legislation are only a beginning. More research from the industry and the academia is needed to better understand the crisis, and vigorous actions are needed to push for meaningful changes.

Perhaps a lingering question is: Does a government-led initiative mean more regulation of the media? The fact is that the choice has never been a simple yes or no to regulation. From postal subsidies of newspapers in the early republic to the myriad of regulations by the Federal Communications Commission, governmental regulation of the media has never been away. Of course, this is not to say that policy moves in the name of democracy should be immune from interrogation, but that it is unwise to contently spectate the market, and money, dictating the media sector. History of the U.S. is rich with instances of protecting social and public institutions against the intrusion of market forces, thus provides ample precedents for today's endeavors. Overcoming the crisis of local journalism will be a long and winding road, but steps need to be taken and concerted efforts made, not because they are easy, but because they are the right thing to do.

'The obscenity of a single mother...owing the county \$15,000 after stealing \$8 worth of makeup.'

Tony Messenger delivers Millstone Lecture at Saint Louis University Law School

by Tony Messenger

If you look on Missouri's court website today, you'll see that I have a bad muffler.

Or had one, anyway. In fact, the muffler on my 2016 Camry Hybrid is just fine. It's pristine. The truth is, I have a lead foot. A couple of years ago, driving to my wife's family farm deep in the Ozarks, I got pulled over for speeding. With my teen drivers laughing in the back seat, the state trooper wrote me a ticket.

Not wanting my insurance to go up, I did what most people in my circumstance would do. I called the prosecutor and asked for a nonmoving violation. I went to the DMV to get my driving record to fax to him. He found it satisfactory and adjusted my charge to driving with a bad muffler.

Why? Because the fine is \$200. Douglass County wanted its money.

This is the reality in nearly every jurisdiction in America. Much of what happens in the court system has less to do with public safety than it does with money. It didn't start that way, but over the years, state legislatures have been more willing to pass laws that add back door taxes to traffic and misdemeanor cases than they have been willing to admit they just voted for a tax increase.

The reality is that people who look like me and have some financial means can write a check and have no consequences. But that's not true for most poor people, and that's why the proliferation of fines and fees in our criminal justice system is such a tragedy. It criminalizes poverty and creates a cycle of debt that for many people leads to one place. To jail. To debtors' prison.

That's what my book, "Profit and Punishment", is about. It examines all the different ways that our system – all three branches of it – conspire to criminalize poverty.

Gary Oxenhandler

Judges play an important role in that process. That was the point retired Judge Gary Oxenhandler made to me a couple of years ago, when my book first came out. At one of my book talks, in Columbia, Missouri, Oxenhandler asked me a question.

Why did you go after the judges so hard? He didn't have a problem with it, mind you. I quote Judge Oxenhandler in the book, and he thinks many of his fellow officers of the court have been playing along with the fines and

fees schemes for too long.

The judge's question, though, gave me a flashback to the time I almost caused a mistrial in his courtroom. It was a dog bite case. The president of the Missouri Tigers football fan club brought his pit bull to the Black and Gold game in the spring. The dog bit a girl. The owner refused to pay the medical bills. They ended up in court. During the trial, I had lunch at a regular haunt of mine, and on my way out saw one of the martial. We made small talk, something along the lines of "interesting case, don't you think?" As the martial left, he noticed a juror sitting on the other side of the restaurant. Out of an abundance of caution, he told Judge Oxenhandler, who called in the attorneys.

The defense attorney flew out of his chair screaming: Mistrial! Judge, I demand a mistrial.

If you know Judge Oxenhandler, you know he calmly sat the attorney down, mulled the situation, and asked the juror to come in. He didn't see us or hear us, the juror said, but Oxenhandler dismissed him anyway and the trial continued.

So, years later, here we were talking about my book, and briefly I wondered whether this was payback. Why did you go after judges so hard, he asked?

Matthew Mueller

The answer is Matthew Mueller. Mueller was a young public defender who had been hired by the head of the system to file motions in courthouses all over the state. They were motions to retax costs. You see, in Missouri, as in most states, there is a statute that allows for a charge of room and board while people are in jail. A pay-to-stay bill. It is often worth thousands of dollars, and when people can't pay, they are, or used to be anyway, sent back to jail. In 2017 and 2018, Mueller was filing motions in nearly every court in the state telling them they were doing this wrong, that state law didn't allow such actions. There was no statute allowing payment review hearings, or allowing people to be put into jail for failure to pay their board bills.

When I was writing my book, Mueller suggested I focus on the judges. There has been plenty cut written in the criminal justice space about police and prosecutors, he said. When it comes to fines and fees, judges have the power to make a difference.

Brooke Bergen

To understand how and why, let's talk about Brooke Bergen.

Brooke Bergen stole an \$8 tube of mascara from Walmart in Salem, a small town smack dab in the middle of Missouri. She ended up owing \$15,000 in court costs, nearly all of it for her year in the Dent County Jail caused mostly by violations of probation alleged by the private for-profit probation company supervising her. She'd miss a check-in phone call or fail a drug test. She didn't have the money to pay the ever-increasing fees. So, she ended up back in jail and every time got another bill.

When I first wrote about Brooke, I thought this was a math story. The obscenity of a single mother making minimum wage, ending up owing the county \$15,000 after stealing \$8 worth of makeup.

In this roomful of legal minds, there may well be wide disagreement over what the proper sentence is for shoplifting. A year seems harsh to me, but some might disagree. I would guess none of us think that a bill for \$15,000, that comes along with threats of jail time if you don't pay, makes much sense.

It sure didn't to my readers. Especially one of them.

Brooke Bergen.

She sent me a Facebook message the day after I wrote about her. I never talked to Brooke for the column. The phone number in court records was no longer active. Her attorney had lost track of her. I didn't take the extra steps to track her down.

But she found me. I was horrified.

It turns out, Brooke wasn't upset. Surprised maybe. But mostly happy that somebody cared about her story. You see, she was one of dozens of other people like her, all of them poor, many dealing with addiction issues, who had at one time or another been crowded into the Dent County Jail as part of the county's egregious debtors prison scheme.

That reality creates a sense of hopelessness that is palpable when you walk into the Dent County Courthouse on payment review days. That's what I did the day after I met Bergen. The line is long, snaking down one hallway from the courtroom and leading outside. The bailiff lets only one person in at a time as they pass through the metal detector. There's room for 30 or so people in the courtroom.



Tony Messenger delivers a lecture at Saint Louis University Law School on March 27, 2024.

Photo courtesy of St. Louis University Law School

Judge Brandi Baird's game was no different than the one many other Missouri judges play. Once a defendant had served his or her time, and they received the bill for their time in jail, Baird scheduled monthly hearings to collect the debt. If the defendant paid a pittance, they'd be good for another month. If not, or if they missed their hearing, jail beckoned.

On the day of Bergen's hearing, the bailiff tried to stop me from observing court. I put my items, pen, notebook, wallet, keys, in the basket next to the metal detector and walked through.

"Wait here," he said. Then he went into the courtroom, presumably to talk to the judge.

Follow me, the bailiff said. He was an old country deputy with a big white mustache and a country drawl. He walked me into a windowless room next to the courtroom. This is how it happens. I thought. This is how I end up in jail.

"You can't come into the court today," the bailiff said. "You didn't follow the Supreme Court rules."

There's a rule in Missouri courts that says if you want to record or take photos or video you must ask a court coordinator for permission. It takes time. But I left my phone

in the car. All I had was a pen and notebook. There is no rule that you can keep a reporter – or anybody else for that matter – out of court proceedings.

I told the bailiff that he and the judge were wrong. I was going to sit in the courtroom that day, and if he tried to stop me I would need time to call the newspaper's attorney.

He went back to the courtroom for a few minutes. Then he waved me in.

"Sit over there."

On this day, nobody went to jail. Bergen paid her \$100 and was sent on her way. Only \$14,900 to go.

The criminalization of poverty

The criminalization of poverty like we see in Brooke's case doesn't start with the board bill, but at the beginning of the process, where poor people end up in jail with bail they can't afford, sometimes as little as \$500 or so. They sit there for a week or longer because most states don't fund their public defenders systems in the way they fund prosecutor's offices. When they get out, perhaps pretrial if a judge lowers their bond, they are often supervised by private, for-profit probation companies. In most states, those companies are pervasive, and they often lead

to people like Brooke ending up back in jail because they can't afford the fees, or they failed a drug test or they didn't have \$300 a month for their ankle monitor. Eventually, a poor defendant agrees to a deal that sounds good – time served on a suspended sentence – and then they get the bill, and they end up back in debtors' prison.

Cory Booth

That's what happened to Cory Booth. I met him when he was 27. When he was 17, he stole a lawnmower, a teenage prank. But he ended up in jail, in Caldwell County. He smoked a little pot back then, and would fail his drug tests, and be sent back to jail, and his pay to stay bill kept getting larger. Once a month he'd be called back to court to pay what he could or explain why he couldn't. He used to tell me he had to decide whether to pay Peter or Paul, medicine for his kids, or month for Judge Jason Kanoy. Ten years after stealing the lawnmower, he owed the court \$7,000.

William Everts

Then there was William Everts. He stole a computer from a church, where he had seen it

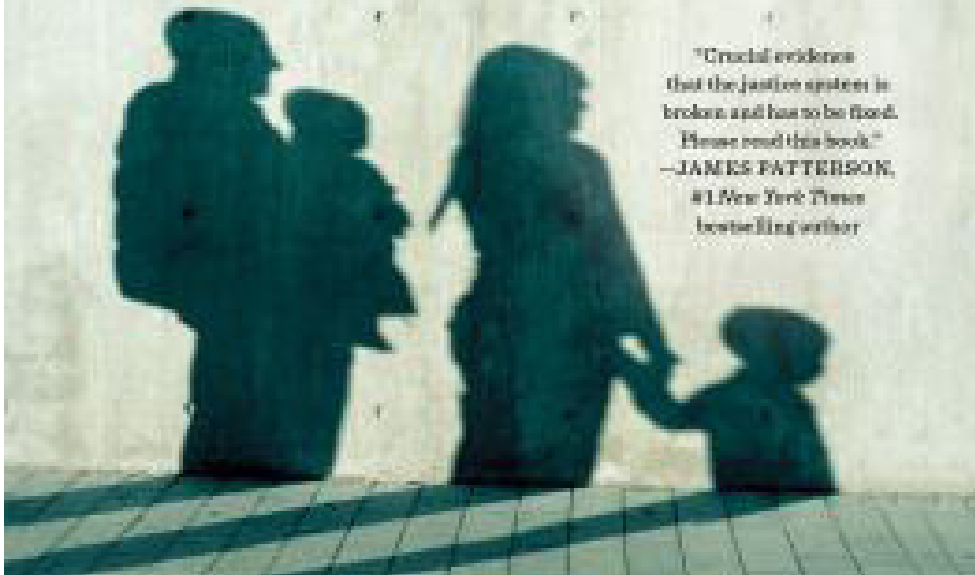
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PROFIT AND PUNISHMENT

HOW AMERICA
CRIMINALIZES THE POOR
IN THE NAME OF JUSTICE

TONY MESSENGER

WINNER of the PULITZER PRIZE



when he went there to get food from the food pantry. Again, he did some time, but couldn't pay his bill. He ended up in Kansas City, as an unsheltered person, and every time he would get picked up for sleeping on the wrong steam grate, there would be a warrant out for his arrest. So the police would take him to Caldwell County, and he would do some more time in jail and his bill would grow again.

Eventually, a homeless advocate wrote the judge and explained they were trying to help William get on his feet. Would the judge let them bring him to jail, stay as long as necessary to pay off his debt, and then leave to rebuild his life? The judge said no.

Amy Murr

One of the people Brooke introduced me to in Dent County was a woman named Amy Murr.

"Why are you doing this?" Amy asked me. Why are you writing about poor people, drug addicts and felons? Why are you telling stories about people in rural towns all over the state who are having their civil rights trampled upon by local sheriffs and prosecutors and judges?

It's the simple indignity of it all, I said, and I told her a story.

Many years ago, I got pulled over by police in the city where my daughter ended

up eventually becoming a cop, in suburban Denver. I wasn't speeding, and I didn't have a bad muffler, but my tags were expired. Yes, in places other than St. Louis, you can get pulled over for that. The officer was taking a long time running my license information and another police car showed up. Then she asked me to get out of the vehicle and cuffed me.

"Do you know why I'm arresting you, Mr. Messenger?" she asked.

I did not. It turns out there was a warrant out for my arrest. I had forgotten about a speeding ticket from about a year before, in a little town called Morrison, known for its speed traps, where the revenue was necessary to balance the city's budget.

The officer asked if I had any cash for bail. I had \$80. She took me to the station, fingerprinted me, took my cash and let me go.

On that day, three of my kids were home alone, with the oldest sibling watching the younger ones. Were I poor, and Black and in North St. Louis County, things could have turned out so much worse. Were I poor, and white and in rural Dent County, my life could have been turned upside down. But nothing happened to me. I paid for my mistake and moved on.

\$3 fee

It's important to understand how we got here. How did a \$50 traffic ticket become something that was keeping people in jail because they owed thousands of dollars in debt? It starts with a simple \$3 fee.

In the 1980s, rural sheriffs in Missouri came to the Legislature and asked for more money for their retirements. No lawmaker wants to say no to the local sheriff, but in Missouri and many other conservative leaning states, the lawmakers aren't about to raise taxes for their pet projects either. So they found a back door. They would put a \$3 fee on every court case in the state. Every traffic ticket. Every misdemeanor. Every felony. It would raise millions.

Soon the prosecutors were in line, and the county clerks, and the domestic violence shelters and brain injury funds and law libraries and countless constituencies that wanted money from the legislature, but could only get it if they convinced lawmakers to add another fee to the court system.

Eventually a group of municipal judges led by Frank Vatterott here in St. Louis realized the sheriff's fee, and likely many others, were an unconstitutional "sale of justice," and they stopped collecting the \$3 fee. After a long and protracted legal battle, in 2021, the Missouri Supreme Court declared the \$3 unconstitutional. The ruling was unanimous.

One fee down, many to go. Not just in Missouri but across the nation, where fees added to court cases have exploded since the last Great Recession in 2008, and those fees, when added to every traffic case,

every misdemeanor, can have devastating consequences on people's lives.

Kendy Killman

Here's how bad the situation is: In Oklahoma, the judges and lawyers actually have a name for the dockets like the one that Bergen, Murr, Booth and Everts ended up in. They call it the revenue docket. They don't even hide the fact that the entire reason people are in court on a given day is for a judge to collect their money.

That's where Kendy Killman used to end up regularly. She had been arrested after a questionable traffic stop in which a police officer found a discarded marijuana pipe with residue in it after a search of the trunk. She ended up owing more than \$1,000 in court costs. Kendy lived on disability payments, and she fell behind.

One of the days she ended up in court answering for one of those warrants, the judge called her name and asked why she was there. She owed money, she explained. The judge sent her to the jury box to sit for a while he dealt with other, more serious, cases. One by one, he went through the cases. One by one, every defendant told the judge they were there because they owed money. He threw up his hands and canceled court that day.

Ferguson

Many of us, myself included, first learned of these practices in August 2014, after the killing of Michael Brown in Ferguson. While much of the protest was around Brown's death and police brutality, there was also an undercurrent about how many Black people in North St. Louis County had been nickle-and-dimed to death by small, cash-strapped municipalities who were using their police departments and municipal courts as virtual ATMs.

There, just like in Dent County – but minus the bill for jail time – hundreds of people would line up outside municipal courts to stand in line to pay their fines and fees, or get arrested because there was a warrant out for their arrest because they couldn't afford to pay on previous tickets. And they'd be shuffled around from debtors prison to debtors' prison. It was the ArchCity Defenders, and lawyers and law students working for the SLU law school clinics that helped bring these abuses to light.

It's been a decade since Brown's death in Ferguson and just this year, the city is finally starting to pay up for its past debtors prison schemes.

But know this: Ferguson is everywhere. Last year's Pulitzer Prize for local reporting went to the group of reporters in Alabama who told of their version of Ferguson, a town called Brookside, that has used its police department and municipal court to destroy the lives of some poor people there, all to

raise money for the city.

These practices can trap people in a cycle of poverty and have long-lasting impact. Take Sasha Darby.

Sasha Darby

Sasha, who used to live in Columbia, South Carolina, is one of the main characters in my book. A few years back, she ended up owing about \$1,000 fines and fees from a minor misdemeanor, an assault charge after a spat with a roommate over rent. Sasha had a job and a car and a place to live, but after expenses she barely made ends meet. When she missed a payment on her court debt, a warrant was issued for her arrest.

Not long after that, she hadn't broken the law, but happened to be recognized by the police officer who arrested her. He ran her name in the computer and saw the warrant. He arrested her and took her to the judge, who gave Sasha a choice. Pay what you owe, or stay in jail until I determine the debt is paid. It's a version of debtors prison that is common in many southern states.

Sasha was 8 months pregnant at the time. She spent 21 days in jail, without adequate health care. The night after she got out, while sleeping on a friend's couch, she lost her baby.

The good news

The good news is that there is progress in the courts recognizing that they have been hijacked to become back-door tax collectors for state legislatures. In 2019, the Missouri Supreme Court ruled unanimously in the cases Mueller brought that it is illegal to send people to jail in Missouri for failure to pay their board bills. Two years later, the Idaho Supreme Court issued a similar ruling in a court costs case in that state.

Federal lawsuits challenging these schemes in both Oklahoma and South Carolina are pending.

How does this happen? How does the Missouri Supreme Court unanimously realize the practice is wrong? How does the Idaho Supreme Court, in a case much like Missouri's, come to the same unanimous conclusion, while circuit court and municipal court judges across the country continue to put people in jail because they owe money?

The Missouri plan

Where is the disconnect? It's not like the judges are going to different law schools. Look at the roster of judges in Missouri and they went right here, to SLU, or to Wash U or to Missouri or UMKC. They studied the same law books. So why the different conclusions on debtors prisons?

It's the Missouri Plan vs. elections.

In 1940, a group of attorneys and judges in Missouri got together to beat back the corruption of the state's political system, where a crime boss named Tom

Pendergast was seeking to control judicial elections. They came up with the Missouri Nonpartisan Court Plan. One of its authors was Rush Limbaugh Sr., the grandfather of the deceased former radio personality. The idea was to remove politics as much as possible from the judicial system by adding an element of merit to the process. About 30 states have some version of the plan. It's how all appellate judges in Missouri are chosen as well as those in St. Louis, Kansas City and Springfield.

Circuit court judges outside the major metro areas run in partisan elections alongside tough-on-crime prosecutors and sheriffs. There's nothing tough on crime about putting poor people in jail because they're poor, but that's not how some judges see things.

That leads to a situation like Brooke Bergen spending a year in jail for stealing an \$8 tube of mascara and nobody batting an eye.

End with Brooke

During much of the time I was writing my book, Brooke was in state prison. She didn't steal again. It wasn't a drug crime. She was there because she drove on a suspended driver's license. Missouri is one of the shrinking number of states that can suspend your driver's license if you get behind on court debt. It is the epitome of criminalizing one's poverty.

We talked quite a bit during that time and planned to get together when she got out. Not long after she got out she sent me another Facebook message, with a picture of her and her kids. She was smiling. I planned to go see her in a couple of weeks.

Two days later I got another Facebook message, this one from a name I didn't recognize. It was a friend of Brooke's. She had died of a drug overdose.

The mortuary where her funeral service was held was across the highway from the Walmart where she stole the \$8 tube of mascara. It was almost too much to take. Brooke obviously had her demons she couldn't escape, but the drugs didn't kill her alone. The system never gave her a chance.

And that's why, in my book, as Judge Oxenhandler noticed, I do challenge judges. To hold ability to pay hearings. To waive fines and fees. To stand up for justice. To bring attention to the problems the legislative branch is forcing on the judicial branch. Mostly, to treat every defendant like their civil rights are just as valuable as mine, as yours, as people who can get a speeding ticket and turn it into a bad muffler.

Brook deserved better. So did Sasha Darby and all of the people like them.

The Constitution and more than 200 years of American history demands that we do better.

Thank you.

Missouri's social media suit likely to lose in Supreme Court: Jawboning 'happens thousands of times a day'

By William H. Freivogel

Judging from the comments last month from conservative justices on the U.S. Supreme Court, Missouri and its far-right ally The Gateway Pundit are likely to lose their attempt to silence federal officials who press social media companies to take down false or dangerous posts.

Justices Brett Kavanaugh, Amy Coney Barrett and Chief Justice John Roberts expressed skepticism toward the claims by Missouri and Louisiana that federal officials violated the First Amendment by pressuring social media companies to take down false posts about COVID-19, national security threats and election denial. The court's three more liberal justices seemed to agree.

Justice Samuel Alito was friendly to the Missouri/Louisiana challenge. "There is constant pestering of Facebook and some of the other platforms," Alito said. The officials "want to have regular meetings," and they suggest rules to apply to content moderation. "Wow, I cannot imagine federal officials taking that approach to the print media?"

But it wasn't hard to imagine for Justices Kavanaugh and Elena Kagan. They had done it before.

Justice Kavanaugh, who served in the George W. Bush White House, said government press aides "regularly call up the media and berate them."

Kagan, who served in the Obama administration put it this way: "Like Justice Kavanaugh, I've had some experience encouraging the press to suppress their own speech," she said. "You just wrote a story that's filled with factual errors. Here are the 10 reasons why you shouldn't do that again. I mean, this happens literally thousands of times a day in the federal government."

On a humorous note, the chief justice interjected that he wanted to make it clear he "had no experience coercing anybody." But he suggested he did not buy the Missouri/Louisiana argument.

He chimed in to support a TikTok hypothetical posed by Biden nominee Ketanji Brown Jackson who asked if the government would be powerless in the face of an online fad promoting a contest of "teens jumping out of windows at increasing elevations," where children were injured or killed.

When Louisiana Solicitor General J. Benjamin Aguiñaga suggested the government couldn't act to get the posts taken down because it would be discriminating against a speaker because of the content of the speech, the chief justice said, "Under my colleague's (Jackson's) hypothetical, it was not necessarily to eliminate viewpoints." The government's purpose would be to end "some game that is seriously harming children around — around the country...."

Justice Barrett asked Aguiñaga whether the FBI would be powerless if he and other Louisiana officials were doxxed by opponents. Aguiñaga suggested the FBI couldn't act. "If what the FBI is trying to do is trying to persuade a speech intermediary to take down a private third party's speech," he said, that would be "an abridgement of speech."

The positions of the chief justice and Justices Kavanaugh and Barrett are important because they, together with the liberals, would make a six-justice majority for overturning lower court orders won by Missouri and Louisiana that would cut off conversations between the government and social media moderators.

In fact, those three justices already have joined with the liberals to delay the effect of the lower court decision in Missouri's favor, so their skepticism toward the states' arguments wasn't surprising.

Nor was it surprising that the three most conservative justices on the court, Justices Alito, Neil Gorsuch and Clarence Thomas seemed sympathetic to the states.

Justice Sonia Sotomayor told the Louisiana solicitor general that she was unhappy with the states' brief. "I have such a problem with your brief," she told Aguiñaga. "You omit information that changes the context of some of your claims."

Techdirt and Slate have published detailed analyses of the mistakes and distortions in the Missouri/Louisiana brief and the district court decision in the states' favor released last July 4 by U.S. District Judge Terry Doughty. The states filed the complaint in the Western District of Louisiana where it was almost certain to be heard by Doughty, a Trump appointee who has ruled against Biden in other COVID-19-

related cases. Slate asserts his opinion was built "atop a heap of fake facts."

Missouri allies with Gateway Pundit

There was no mention in court of The Gateway Pundit, the St. Louis news site run by Jim and Joe Hoft and known as one of the most notorious purveyors of disinformation in the country.

When former Attorney General Eric Schmitt, predecessor to Andrew Bailey, added Hoft to the lawsuit, former Missouri Supreme Court Justice Michael Wolff told GJR that "by adding Hoft to the case and giving him the state's imprimatur, Schmitt has essentially normalized him."

The Pundit's March 18 story on the oral argument painted a much different picture than most professional media. Here was its headline:

US Supreme Court Justice Ketanji Brown Jackson Just Defended The US Government Violating the 1st Amendment During Arguments in Case Sen Rand Paul Calls "the most consequential free speech case in U.S. history"

The story went on to say that "Ketanji-Brown Jackson dropped a stunning First Amendment bomb" by saying that Aguiñaga's view on her hypothetical about children jumping out of windows "has the First Amendment hamstringing the government in significant ways in the most important time periods."

Not only did the Pundit misspell Ketanji several ways, but it also was part of a viral narrative distorting what the newest justice on the court had said. Reason, a libertarian magazine, pointed out how conservative media and politicians jumped on the hamstringing comment to make the distorted claim that the Justice didn't understand the First Amendment. Reason reported this roundup of comments in conservative media:

"Jackson raises eyebrows with comment that First Amendment 'hamstrings' government," wrote Fox News. "Leftists want unlimited government — which is why they hate the Constitution," lamented The Federalist. It was "literally one of the craziest things I've ever seen," said Rep. Jim Jordan (R-Ohio).

Also common in the conservative media

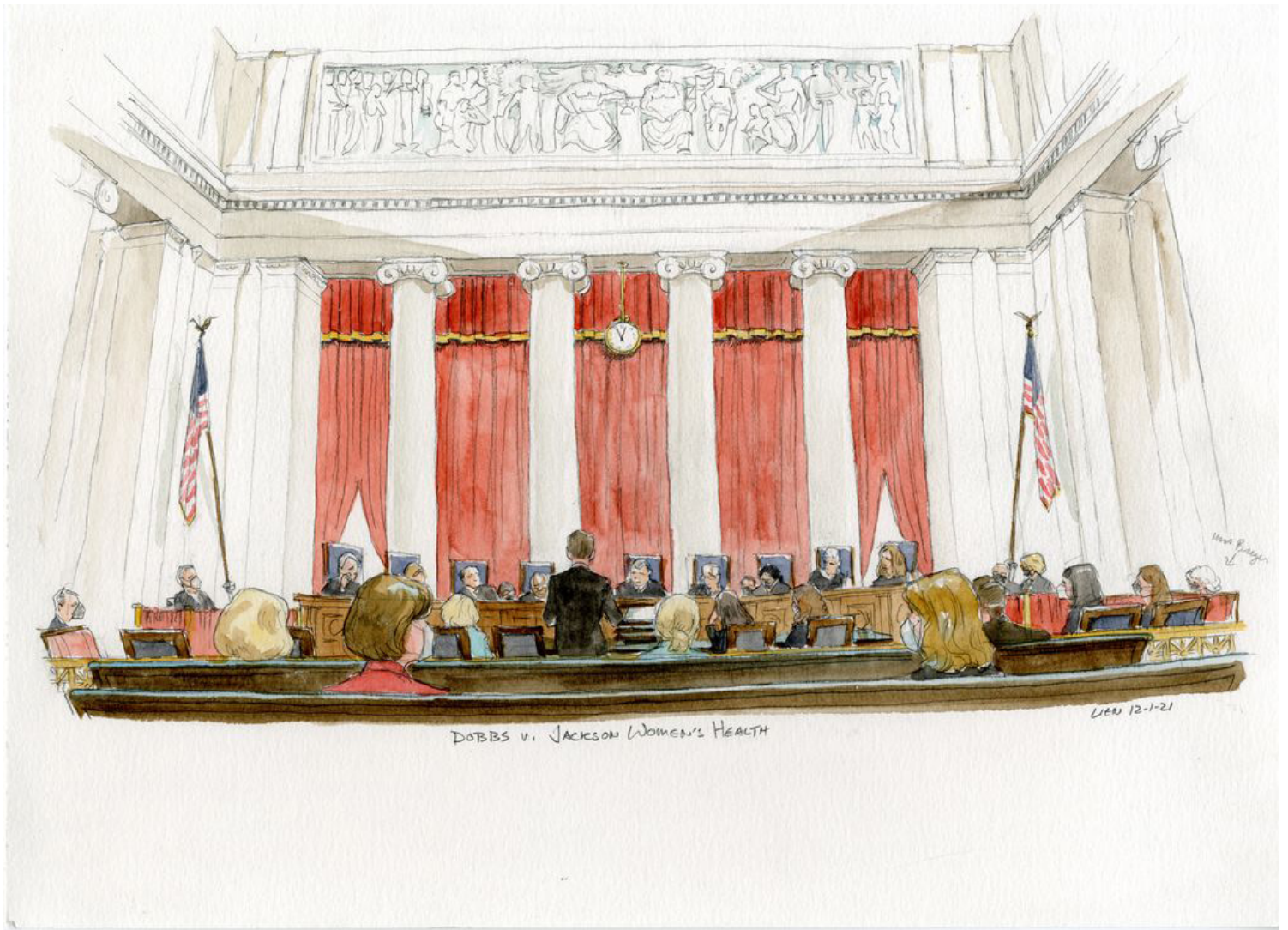


Illustration by Art Lien

was the claim repeated by the states that the government's pressure to take down posts was "censorship" and the biggest blow to the First Amendment in history.

One person making that claim was Missouri Solicitor General Josh Divine in an interview with Scotusblog about the case in which he characterized the government's actions as the "most massive attack against free speech in United States history." Divine is an up-and-coming national conservative figure who clerked for Justice Thomas, was Sen. Josh Hawley's chief counsel and a member and speaker for the Federalist Society.

As important as the Missouri case could be, it also might fizzle. The court spent a portion of the two hours of oral arguments considering whether those suing the federal government had legal standing. If they don't, the case might not be decided on its merits.

Editor's Note: For more an analysis of the internet cases facing the courts this term, read GJR past reporting.

“ Like Justice Kavanaugh, I’ve had some experience encouraging the press to suppress their own speech,” she said. “You just wrote a story that’s filled with factual errors. Here are the 10 reasons why you shouldn’t do that again. I mean, this happens literally thousands of times a day in the federal government.”

— Justice Elena Kagan



Illustration by Art Lien

Missouri's hard-right legal arguments may be backfiring in Supreme Court

By William H. Freivogel

(One and a half years ago, GJR published "A citizen's guide to the U.S. Supreme Court losing legitimacy". In the wake of the 2022 Dobbs decision overturning *Roe v. Wade*, public approval had sunk to the lowest level since the New Deal. It remains there in the most recent Gallup polling despite Chief Justice John G. Roberts Jr.'s attempts to address ethical criticisms and shore up the court's legitimacy. Here are recent developments.)

The hard-right legal arguments that Missouri, other red states, top conservative lawyers and Trump attorneys are making in the U.S. Supreme Court may be backfiring by dividing the conservative wing of the court and pushing more centrist conservatives toward the liberals.

In recent cases, two or more of the conservative justices have expressed

skepticism toward arch-conservative arguments that could ban abortion drugs, expand gun rights, open the door to false and dangerous social media posts, support former President Donald Trump's election denials and permit states to intrude into federal immigration matters.

It's too early to draw firm conclusions, but doubts expressed by Chief Justice Roberts and Justices Brett M. Kavanaugh and Amy Coney Barrett during oral arguments may reflect a moderation of the sharp shift to the right that seemed unstoppable after the Dobbs decision overturned *Roe v. Wade* two years ago.

A floating middle of two or three moderate justices may be taking the place that moderate conservative justices such as Justices Anthony M. Kennedy, Sandra Day O'Connor and Lewis Powell played over

the past half-century.

After the Dobbs abortion decision, the press and analysts described a conservative juggernaut taking hold on the court. But last year - setting aside the decision ending race conscious college admissions - the court appeared to pull back. Lee Epstein, the former Washington University professor now at USC, commented that "the most conservative and aggressive court in modern history" seemed to have "moderated."

Epstein is the national expert on Supreme Court voting trends and compiles an annual report along with Andrew Martin, the Washington University chancellor. That report found that Roberts and Kavanaugh were in the majority in divided cases more than any other justice - 86 and 90 percent respectively - while conservative Justice

Clarence Thomas was in the majority in the fewest close cases, 55 percent.

The post-Dobbs prediction that Thomas and Justice Samuel A. Alito Jr. were taking control of the court from Roberts, began to seem overstated. The surprising victory for voting rights in an Alabama redistricting case last June was especially dramatic, as Roberts and Kavanaugh joined the liberals in a decision expanding Black voting strength in the South.

So far, recent actions and arguments in Supreme Court cases, several involving Missouri, reinforce this trend:

Mifepristone

Last month Erin Hawley, the wife of Sen. Josh Hawley, R-Mo., ran into skepticism in the mifepristone case from all of the court's justices except for the two most conservative — Justices Thomas and Alito. Hawley, who clerked for Roberts as did her husband, faced intense questioning that sometimes left her stammering. She argued that protecting the consciences of seven anti-abortion doctors required that the court cut off the medical abortion drugs from all American women who use them — 640,000 last year. The drugs can end a pregnancy within 10 weeks of conception, have been found safe and effective by the Food and Drug Administration and are used in the majority of abortions.

Justices across the spectrum had difficulty with the lopsided scales of justice that Hawley was proposing. Justice Ketanji Brown Jackson called it a "significant mismatch" between the claimed harm to the seven doctors' consciences and the remedy of denying health services to hundreds of thousands of women — particularly in light of a federal law allowing the doctors to claim a right of conscience exemption from abortion procedures. Justice Neil Gorsuch, a Trump appointee, questioned turning the complaints of "a handful of individuals" into "a nationwide legislative assembly."

Missouri Attorney General Andrew Bailey tried earlier this year to intervene in the case on Hawley's side, but the Supreme Court turned him down. Last summer, the Missouri Supreme Court quickly and unanimously rejected Bailey's attempt to inflate the cost estimate of an abortion-rights petition circulating in the state. Bailey claimed the cost of the initiative would be in the billions of dollars. The scathing opinion by the state's high court was issued just two days after argument, showing how perturbed the court was with Bailey's delay of the petition process. The opinion stated that nothing "gives the attorney general authority to question the auditor's assessment of the fiscal impact of a proposed petition."

False and dangerous social media posts

In early March, Missouri and Louisiana claimed that the Biden administration caused the greatest violation of the First Amendment in history by pressuring social media companies to take down false and dangerous posts about COVID-19, vaccination safety, election denial and national security. Missouri had won in the lower courts, but the Supreme Court put those lower court decisions on ice and now appears ready to rule against Missouri and Louisiana.

Kavanaugh, who served in the George W. Bush White House, said during the oral argument that government press aides "regularly call up the media and berate them." Justice Elena Kagan, who served in the Obama administration, described her own experience "encouraging the press to suppress their own speech. 'You just wrote a story that's filled with factual errors. Here are the 10 reasons why you shouldn't do that again. I mean, this happens literally thousands of times a day in the federal government.'" Roberts and Barrett appeared to agree.

Still, Attorney General Bailey put an optimistic face on the argument in a public statement released after it concluded: "Today, the United States Supreme Court heard the most important First Amendment case in this nation's history. I'm proud that Missouri is leading it," said Bailey. "My office brought this lawsuit to halt the disgusting silencing of millions of Americans by the Biden Administration. We feel confident after today's arguments, and look forward to reminding the nation that the First Amendment still means something in this country."

Missouri's legal ally in the Supreme Court is The Gateway Pundit, the Missouri-based champion of right-wing conspiracy theories for almost 20 years. The publication, run by Jim Hoft and his brother Joe, currently faces a defamation suit in St. Louis for claiming that two Georgia poll workers stuffed ballot boxes in the 2020 election — claims that Congress's Jan. 6 investigation found to be false and to have subjected the women to so many threats that one had to move out of her home.

Florida and Texas laws on social media moderation

In February, the high court considered another conservative challenge to the way social media companies moderate speech online. During an oral argument Feb. 26, a majority of the justices appeared to think the First Amendment editorial rights of the social media companies were violated by 2021 Florida and Texas laws restricting the companies from taking down false posts.

Guns

Last October the Supreme Court turned down Missouri's emergency appeal seeking to reinstate the Second Amendment Preservation Act. The law prohibits state and local law enforcement officials from enforcing federal gun laws that Missouri claims are unconstitutional, including federal laws requiring registration of some firearms and denying guns to felons.

U.S. Solicitor General Elizabeth Prelogar said the law was "an obviously unconstitutional attempt to nullify federal law." Missouri Solicitor General Josh Divine, another high octane conservative advocate who was a Supreme Court clerk and has a Federalist Society pedigree, argued the federal government didn't even have the right to sue. But a lower court judge ruled that Missouri's law violated the Constitution's Supremacy Clause, which provides that the Constitution and federal law take precedence over conflicting state law.

When Divine filed an emergency petition to enforce the law, the Supreme Court turned him down. Justices Thomas, Alito and Gorsuch showed some support for Missouri's position.

In an argument last fall, the court appeared ready in *U.S. v Rahimi* to uphold the government's power to take a gun away from a domestic abuser who had assaulted his girlfriend and shot at a witness to the assault. Chief Justice Roberts said to the man's lawyer, "You don't have any doubt that your client's a dangerous person, do you?" Justice Kavanaugh noted that federal background checks included information about domestic abuse and suggested they should. Justice Barrett also appeared to support gun measures targeting domestic abusers.

One reason the case is important is that a decision could chip away at a pro-gun precedent written by Justice Thomas that required a gun law to have a 1791 analogue to comply with the Second amendment. The originalist interpretation of the Constitution, followed by Thomas and most of today's court, centers its interpretation on the meaning of a constitutional provision when it was ratified. In 1791, women didn't have rights under the Constitution.

Election denial

Hawley, the Missouri senator, and then Missouri Solicitor General D. John Sauer, two former Supreme Court clerks, lent their reputations as brilliant lawyers to the Trump effort in the courts and Congress to overturn the 2020 election. Sauer and Schmitt filed an amicus brief supporting Texas Attorney General Ken Paxton's December 2020 election challenge, which

was widely viewed as spurious and quickly rejected by the Supreme Court without argument, but which gave credence to the idea that the election had been stolen.

More recently, Sauer was the lawyer who notably argued that Trump should have nearly absolute immunity from criminal prosecution for acts taken while president. "Could a President order seal Team 6 to assassinate a political rival?" Judge Florence Pan, of the U.S. Court of Appeals for the D.C. asked Sauer during oral arguments late last year.

Sauer hedged and then responded that Trump could only be criminally prosecuted if he were first impeached for the act and convicted in the Senate. The appeals court ruled against Trump's absolute immunity claim. Trump's appeal will be heard by the Supreme Court April 25.

Trump himself questioned the legitimacy of the Supreme Court when it turned down his request to keep his income taxes secret. "A massive fraud of this type and magnitude allows for the termination of all rules, regulations, and articles, even those found in the Constitution. Our great 'Founders' did not want, and would not condone, False & Fraudulent Elections!" he said.

Immigration

Missouri and Texas lost a challenge in 2023 to Biden's decision to end Trump's "remain in Mexico" policy that required people seeking asylum to remain in Mexico while they awaited a hearing. In a 5-4 decision, Chief Justice Roberts said that the president had the discretion to release asylum seekers in the United States pending hearings. Kavanaugh and the three more liberal justices joined Roberts in rejecting Missouri's claim.

Vaccinations

At the height of the Omicron surge in COVID-19, a 5-4 majority in Biden v. Missouri rejected Missouri's challenge to the Biden administration rule requiring that health care workers in facilities receiving Medicare or Medicaid get vaccinated unless they had a health or religious exemption. Kavanaugh and Roberts joined the more liberal justices in the majority.

Student loans

One case in which Missouri and other conservative states won in the Supreme Court was the court's rejection of Biden's plan to forgive student loan debt, where the court's six most conservative justices stuck together to rule that Biden had exceeded presidential authority.

Recently Bailey announced he and other red states are challenging Biden's newest college loan forgiveness plan, which he maintains helps wealthy students.

He said, "I'm extremely pleased to see Kansas is leading a multi-state coalition in challenging President Biden's latest attempt to unlawfully transfer hundreds of thousands of dollars in Ivy League debt onto working Missouri families."

Bailey and his predecessor as attorney general, Sen. Schmitt, have also used aggressive legal tactics in making legal threats to local school districts in Missouri.

DEI

Schmitt, while attorney general, challenged school districts around the state on both COVID-19 policies and diversity, equity and inclusion training.

Bailey recently has attempted to link a fight at Hazelwood East High School in which a girl was seriously injured to the school's DEI policies.

"I am launching an investigation into Hazelwood School District after a student was senselessly assaulted by another student in broad daylight," Bailey said in a statement last month. "The entire community deserves answers on how Hazelwood's radical DEI programs resulted in such despicable safety failures that has resulted in a student fighting for her life."

There is no evidence that the school's program had anything to do with the fight.

Hazelwood School District lawyer Cindy Reeds Ormsby said in a letter to Bailey that his "obvious racial bias against majority minority school districts is clear.

"Do you honestly believe, again, without any official verification or specific knowledge, that the fight on March 8th was a result of a racial issue between the female students that was caused by the HSD belief in the importance of diversity, equity and inclusion for all? What community do you represent as the Missouri Attorney General? Do you represent all citizens of Missouri? Or only the white citizens?"

Transgender care

Bailey's demands for Missouri hospitals to turn over patient information relating to transgender care triggered two lawsuits last year, one in December by Washington University and the other by Children's Mercy Hospital in Kansas City. The hospitals maintain that Bailey cannot use Missouri's consumer protection laws to get private information about transgender patients.

Bailey filed a countersuit claiming that the Biden administration is interfering to block Washington University from turning over the records he has subpoenaed. "We will not let Joe Biden and his federal bureaucrats interfere with our investigation into the pediatric transgender clinic," Bailey said in a statement. "These documents are critical to exposing that children were subject to irreversible, life-altering

procedures without full and informed parental consent."

A year ago, Bailey used the state's consumer protection law to propose an emergency rule restricting both kids' and adults' access to gender-affirming care. The ACLU of Missouri filed to stop the rule's implementation, and a judge granted a temporary injunction. Judge Henry Autrey lectured Divine, Bailey's top lawyer, for the weakness of the state's case for moving the case to federal court.

"You can't just file something in federal court because you want to be in federal court," Autrey told Divine, who formerly worked for Sen. Josh Hawley and clerked for U.S. Supreme Court Justice Clarence Thomas. "There is this little thing called jurisdiction."

Bailey ultimately withdrew the rule after the state's legislature passed a ban on gender-affirming care for transgender youth. Some conservative Republicans, such as Secretary of State Jay Ashcroft, criticized Bailey for going too far in proposing a rule that would affect the medical care of adults as well as children.

Supreme Court clerks making far-right arguments

A number of the lawyers making Missouri's hard-right arguments are among the smartest legal advocates in the country, having served in the prestigious role of clerking for a Supreme Court justice.

The Hawleys clerked for Roberts, Divine for Thomas and Sauer for Antonin Scalia.

Last month, a California judge recommended that another former Supreme Court clerk, John Eastman, lose his law license for his role in Trump's legal effort to remain in power. Eastman, who clerked for Thomas, played a key role in a plan for states to send pro-Trump slates of electors to Congress and have then-Vice President Mike Pence block or delay the certification of Joe Biden's election victory.

Retired Justice Stephen G. Breyer released a new book last month warning that the Supreme Court has taken a wrong turn. Liberal critics considered it an infuriatingly gentle rebuke of the court. But in an interview with the New York Times, Breyer was more outspoken about how the court had failed to foresee the toll of overturning Roe. "Are they really going to allow women to die on the table because they won't allow an abortion which would save her life? I mean, really, no one would do that. And they wouldn't do that."



Photo by Jeremy Nobel via Flickr

The First Amendment and the internet

By William H. Freivogel

On March 18, Missouri and its legal ally The Gateway Pundit will try to convince the U.S. Supreme Court that the Biden administration violated the First Amendment by “coercing” social media companies to “censor” false conservative posts on vaccine and election denial.

The argument comes less than a month after the Feb. 26 argument in which a majority of the justices appeared to think the First Amendment editorial rights of the social media companies were violated by 2021 Florida and Texas laws restricting the companies from taking down false posts.

The two cases together are widely viewed as the most consequential First Amendment cases about the internet in the 27 years since an exuberant Supreme Court declared the internet was the modern “town square.”

The decades since that 1997 Reno v. ACLU decision have shown that town

square was too sedate a metaphor for what has become a ubiquitous, powerful communications device that reaches into every family’s home, purse and pocket.

The press in 1791, when the nation added the First Amendment to the Constitution, had its ugly side with partisan newspaper editors saying nasty things about Thomas Jefferson and John Adams. But the men with the wigs could not have foreseen in their wildest dreams what would happen to the world when everyone had a printing press in their pocket. For that matter, the Supreme Court in the Reno decision about the public square had no clue what lay directly ahead.

Media scholars in the early days of the internet dreamed about the internet democratizing the media and looked forward to reader comments on news stories providing immediate citizen feedback to professional journalists. Now

many publications spend time blocking or editing rude, racist, misogynist and false posts and pundits worry about the future of democracy in the internet age.

Congress shall make no law

At the center of the February argument on the Florida and Texas laws was whether “censorship” was the right word for the process of social media companies applying their content moderation policies to identify and remove false or dangerous posts.

Justices Clarence Thomas and Samuel Alito, the two most consistently conservative justices, said censorship was exactly the right word.

“Can you give me one example of a case in which we said that the First Amendment protects the right to censor?” asked Thomas.

Continued on next page

Justice Samuel Alito chimed in suggesting that “content moderation” is “actually... a euphemism for censorship?”

But Justices Brett Kavanaugh, Amy Coney Barrett and Chief Justice John Roberts — whom Thomas and Alito would need to convince to build a majority — did not agree.

They pointed out that the First Amendment protects against government censorship, not private restrictions on speech.

Kavanaugh pointed to a series of cases “which emphasize editorial control as being fundamentally protected by the First Amendment.”

Barrett said “it all turns” on whether the social media platforms are exercising “editorial control” in which case they are acting like newspapers — not like telephone companies as the states had suggested.

The chief justice pointed out that, because social media companies are not bound by the First Amendment, “they can discriminate against particular groups that they don’t like.”

Missouri and The Gateway Pundit

In the March case, Missouri Attorney General Andrew Bailey is making common cause with Jim Hoft, the right-wing publisher of The Gateway Pundit, the St. Louis internet site that is highly influential in far-right circles. The publication currently faces a defamation suit in St. Louis for claiming that two Georgia poll workers stuffed ballot boxes in the 2020 election — claims that Congress’s Jan. 6 investigation found to be false and to have subjected the women to so many threats that one had to move out of her home.

The Gateway Pundit is among the most notorious purveyors of disinformation in the country. As this GJR profile from 2021 reported, Hoft has been a champion of right-wing conspiracy theories for nearly 20 years, and, had appeared to have made a good living out of it. This month he filed for bankruptcy protection blaming “progressive liberal lawfare attacks.”

When former Attorney General Eric Schmitt added Hoft to his lawsuit, former Missouri Supreme Court Justice Michael Wolff told GJR that “by adding Hoft to the case and giving him the state’s imprimatur, Schmitt has essentially normalized him.”

Bailey, who became attorney general after Schmitt’s election to the Senate, is continuing to include Hoft in his submissions to the Supreme Court. The state’s brief to the court cites the Hunter laptop episode a month before the 2020 election. Federal law enforcement agencies cautioned that the story about the discovery of the laptop might be Russian disinformation. That caused social media companies to take down a Gateway

Pundit story. It turned out that the story was accurate and not the work of Russian agents. But the event occurred during the Trump administration.

Parades of horrors

Both Missouri and the federal government describe a parade of horrors if its side loses.

The Biden administration and social media companies argue that “grave harm” could result from the 5th U.S. Circuit Court of Appeals decision limiting what federal health and law enforcement officials can tell social media platforms about health risks like COVID-19 and Ebola or safety risks from terrorist threats. (The 5th Circuit heard the case because Louisiana joined Missouri in the suit.)

The lower courts “imposed unprecedented limits on the ability of the President’s closest aides to speak about matters of public concern, on the FBI’s ability to address threats to the Nation’s security, and on CDC’s ability to relay public-health information,” the Biden administration says in its brief to the court.

This puts “unprecedented limits on the ability of the President’s closest aides to use the bully pulpit to address matters of public concern, on the FBI’s ability to address threats to the Nation’s security, and on the CDC’s ability to relay public health information at platforms’ request.” The government too has a First Amendment right to speak about dangerously false posts, it argues.

Missouri responded that “the bully pulpit is not a pulpit to bully.” It argued: “This Court has rarely, if ever, faced ... a coordinated campaign of this magnitude orchestrated by federal officials that jeopardized a fundamental aspect of American life.” The Biden administration “engaged in a broad pressure campaign designed to coerce social media companies into suppressing speakers, viewpoints, and content disfavored by the government.... The harms that radiate from such conduct... impact every social media user.” The government “conduct fundamentally transforms online discourse and renders entire viewpoints on great social and political questions virtually unspeakable on social media, ‘the modern public square.’”

Missouri maintained that the Biden administration’s communications with social media companies took on a coercive tone, especially when administration officials, unhappy with the slow response of the companies, mentioned at times that the companies could face antitrust legal challenges.

Missouri says the Biden administration pressure campaign began at 1:04 a.m. on Jan. 23, 2021 when the White House flagged an anti-vaccine tweet from Robert

F. Kennedy Jr. and called for Twitter to “get moving on the process for having it removed ASAP.” The White House added, “if we can keep an eye out for tweets that fall in this same ~genre that would be great.”

Missouri maintains this was the beginning of a campaign of “unrelenting pressure from the most powerful office in the world” to “bend [social media platforms] to the government’s will.” This led, Missouri says, to the social media companies eventually taking action against the “Disinformation Dozen” it blamed for 73% of misinformation on social media.

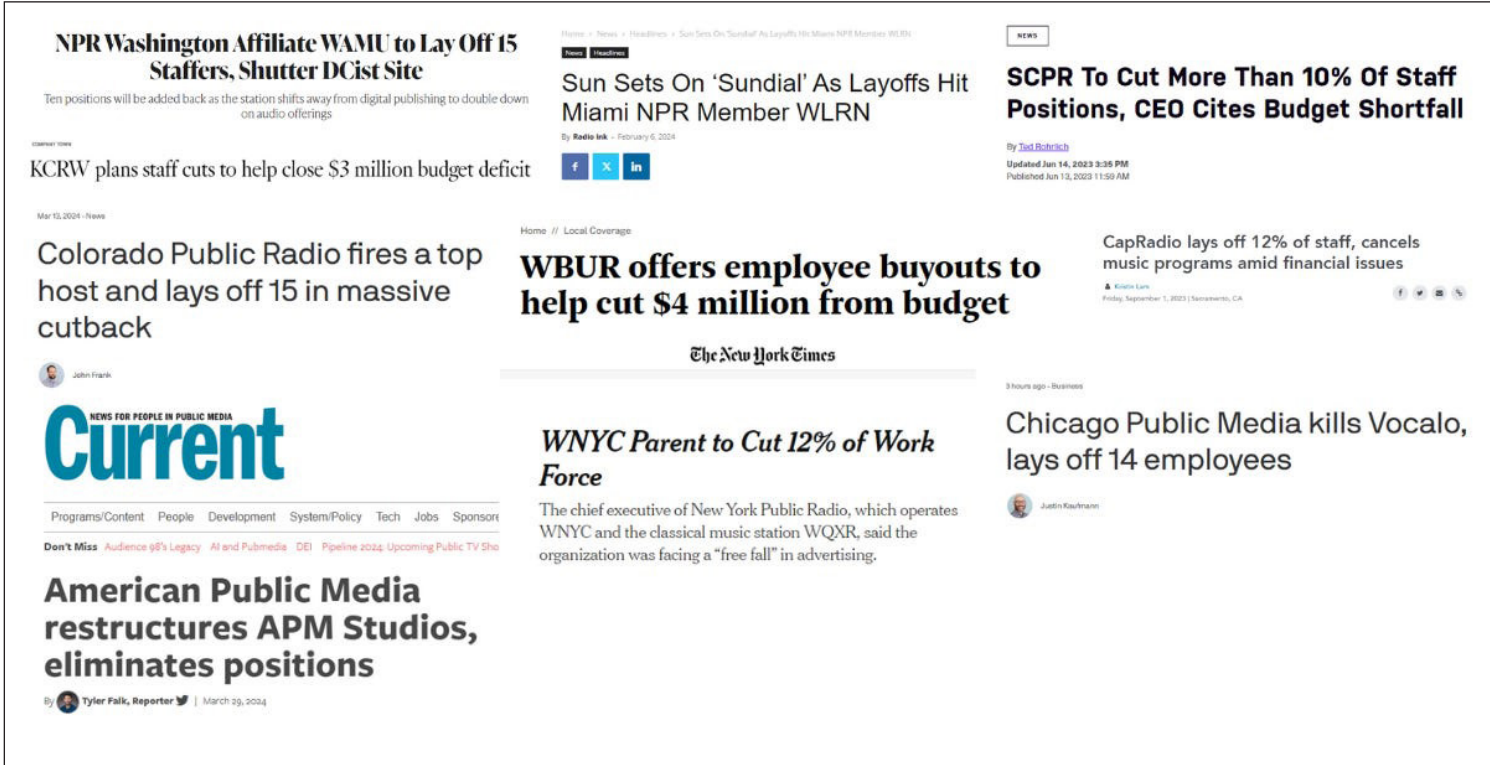
Threat to the press and academic researchers?

The Reporters Committee for Freedom of the press, in a friend of the court brief, takes neither side in the argument but warns that a “too-sensitive test for coercion could have two negative consequences. First, it could lead to the chilling of the free flow of information from government sources to the news media. Second, it could license... burdensome fishing expeditions for ... evidence of collusion between journalists and public officials... Both results would threaten rather than promote the editorial autonomy of a free press,” it said.

Stanford University, which formed the Stanford Internet Observatory to track internet abuses in the areas of child abuse and election misinformation, filed a brief in support of the federal government. The lower court decisions that restricted government speech with social media companies included numerous references to the Stanford researchers who flagged false social media posts. In addition, Hoft of St. Louis’ Gateway Pundit, has sued to hold Stanford liable for violating his First Amendment rights. The suit also asks for a court order cutting off communications between the Stanford program and the government.

The university says, “private research universities like Stanford and their researchers are not state actors subject to constitutional constraints just because they speak to the government about their research. Indeed, the underlying research by Stanford, its communications with the government, and its flagging potentially violative content to social media platforms are all conduct that is itself protected by the First Amendment.”

The Supreme Court decided last October to delay the effect of the 5th Circuit ruling that would have limited government communications with the social media companies. Justices Alito, Thomas and Neil Gorsuch would have allowed the lower court ruling to go into effect. That vote could suggest that the more conservative justices on the court may be split on the two important cases that will influence the future of the internet’s turbulent town square.



Deficits mounting for public radio's largest stations

By Tim Eby

The headlines over the past several months speak for themselves. Layoffs were reported at NPR affiliates in Washington, D.C. Miami, Chicago, Boston and New York.

Many others are facing similar challenges as budget deficits at large and smaller public radio stations bring financial challenges not seen since the Great Recession 15 years ago.

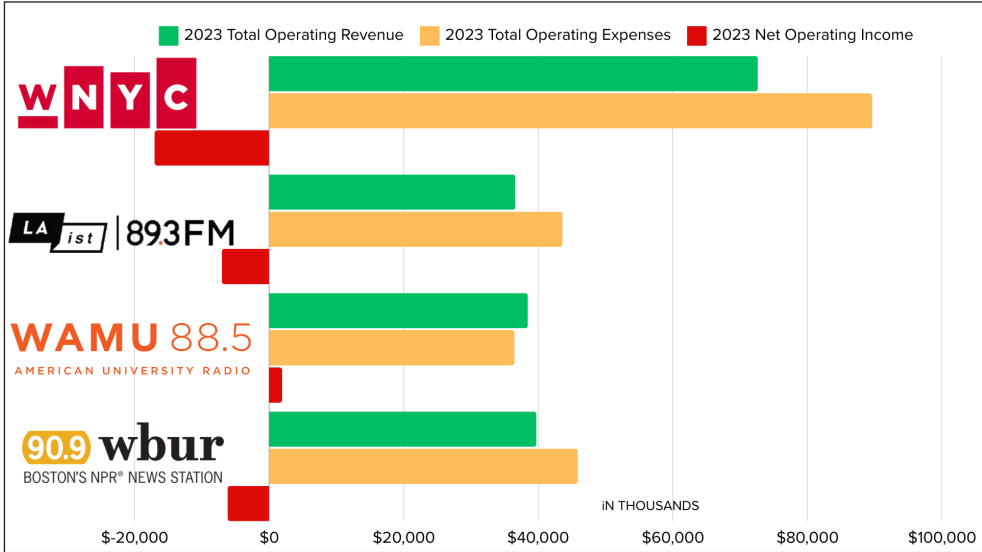
An analysis of audited financial statements from the 2023 fiscal year shows worrisome results for public radio, which also faces declines in audience in the post-pandemic media environment.

These station budget problems follow NPR's financial challenges from a year ago when the network announced it would lay off roughly 10% of its current workforce.

Thing ONE: the top markets

First, I have chosen to review only the financial statements from radio-only operations for most of this analysis. In joint licensee situations, there is so much co-mingling of dollars, both on the revenue and expense side, that it is very difficult to realistically sort through the data to draw any major conclusions.

I will touch on a few joint licensees



in Thing Three to highlight where some organizations stand amid these challenges.

To start, let's look at stations in some of the country's most important markets: WNYC, KPCC, WAMU, and WBUR. I would include KCRW and WBEZ in this group, but unfortunately, they have not published their 2023 financial statements from their most recent fiscal year, which ended June

30, 2023.

The chart above shows the 2023 revenue, 2023 expenses, and net income. Last year, the combined operating deficit for these four stations was around \$28 million.

Now, \$17 million of this was WNYC alone, but add \$7M from LAist and over

\$6M from WBUR, and the picture is not pretty. The only station that finished 2023 with a surplus was WAMU, which, despite that, was still forced to make some difficult budget decisions earlier this year. In total, the four stations' deficits were around 15% of their total revenue in 2023.

The 2023 deficits followed deficits in 2022 of \$3.37 million for WNYC and \$3.9 million for WBUR. KPCC (\$5.3M) and WAMU (\$6.5M) finished 2022 with solid surpluses.

While it may or may not be related, the weekly cumulative audiences for most of these stations have also fallen over the past few years.

WNYC, which had its best-ever market share of 4.7% in February 2024, has lost more than 100,000 weekly listeners compared to 2021. KPCC lost close to 200,000 listeners in that period. Meanwhile, WAMU and WBUR have maintained most of their weekly audience over the last few years.

Thing TWO: Is it only a major market problem? Um, NO.

Let's look at the next tier of stations: KUOW in Seattle (market #11), WUSF in Tampa (market #17), Colorado Public Radio (market #18), and WFAE in Charlotte (market #21). These results are pretty dismal as well.

KUOW ran a \$2.4 million deficit in 2023, WUSF was down close to a million dollars (\$998,802), Colorado Public Radio was in the red by \$2.34M, and WFAE was down close to \$1.5M.

The combined deficits of these four stations are more than \$7 million, or around 10.5% of total revenue.

Here are four more stations that would qualify in the middle market category.

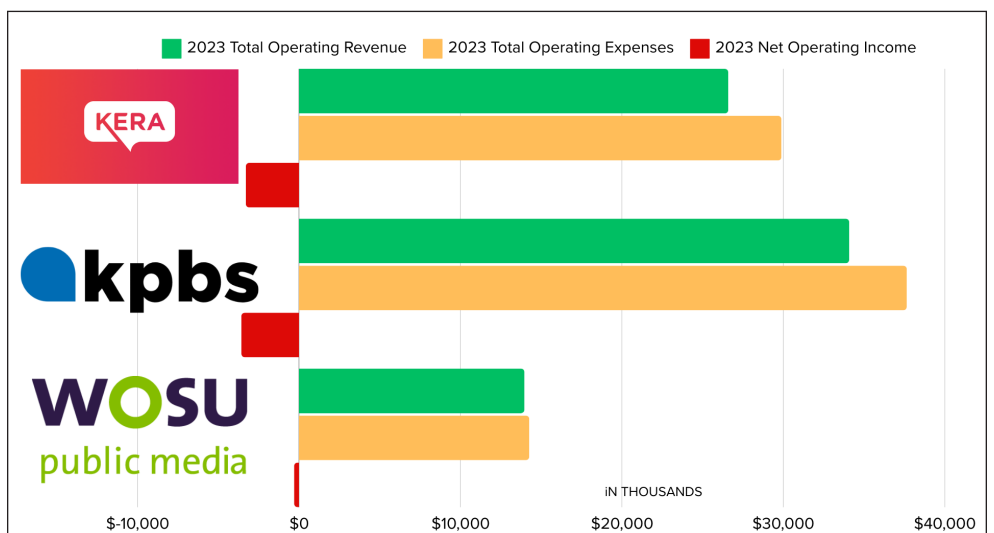
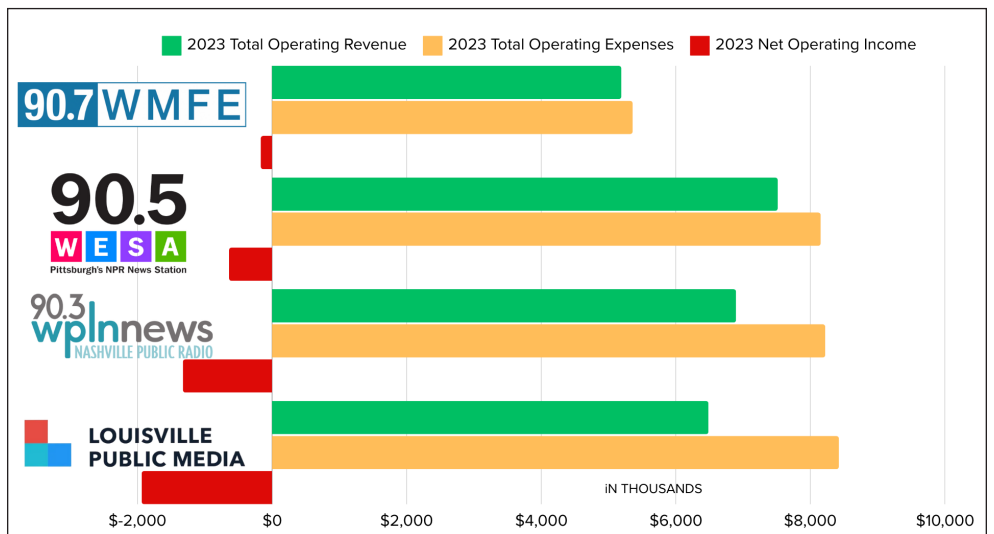
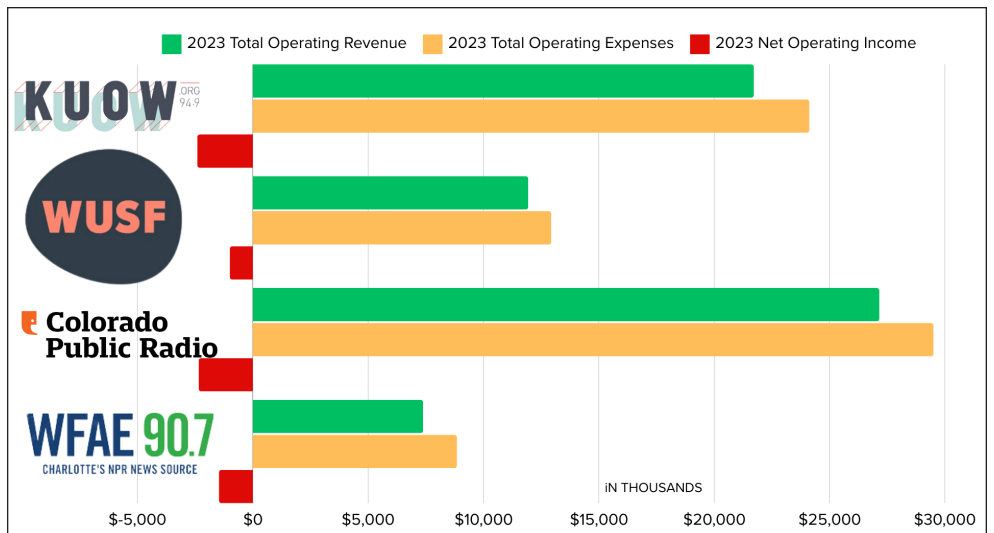
WMFE in Orlando, WESA/WYEP in Pittsburgh, WPLN in Nashville, and Louisville Public Media. These four stations had a combined deficit of over \$4 million in 2023, about 15% of their combined revenue of \$26 million.

These examples do not suggest that every public radio station is running a deficit.

However, my analysis of 2023 financial reports from dozens of stations signals some significant industry challenges.

Thing THREE: a few joint licensees and looking ahead

Interpreting audited financial statements from public media organizations can be somewhat challenging because of how many university stations report their financials. Add to that the complexity of how joint radio-TV licensees report their data when there is usually such an overlap between the broadcast operations. For



example, who gets credit for a major gift when someone who loves both radio and television donates to a joint licensee? In most cases, television does because the incentive rate in CPB matching funds has historically favored TV revenue over radio.

Nonetheless, I pulled out a couple of joint licensees who run very successful radio and TV operations to see how they're

doing. The results are mixed.

KERA in Dallas-Fort Worth, which acquired the Denton (TX) Record-Chronicle last year, lost over \$3 million in its 2023 fiscal year. Meanwhile, KPBS in San Diego, which receives over \$2.1 million in cash support from its licensee, San Diego State University, also ran a deficit. In addition to the cash support that the station receives,

it also reported indirect financial support from SDSU of nearly \$6 million.

Finally, we look at WOSU in Columbus. The station also receives a large subsidy from The Ohio State University, which was \$1.6 million in 2023. Without that university's support, the station would have had a nearly \$2 million deficit out of a \$14 million budget.

So all of this begs the question: What's been the cause of these financial difficulties?

I'll focus this response on public radio. For the sake of transparency, I've been away from the daily business of public radio for a couple of years, so these are my observations with some basis on publicly available data.

The Loss in Audience

As I wrote last year in this newsletter, public radio is losing listeners. A lot of listeners. You can point to changes in media habits coming out of the pandemic. You could also point to increased competition from outlets like The New York Times audio products and other on-demand producers.

However, I believe the most significant reason for this loss of listening is that public radio news programming has lost its focus on who its audience is and who it should be.

Public radio's audience growth over previous decades happened because the network, primarily NPR, and stations took an audience-first approach in producing its programming. As John Sutton recently wrote in *Current*, "Programming causes Audience." If you're not serving the audience, they will go elsewhere, resulting in fewer listeners supporting a station and making it more challenging to sell on-air sponsorships.

The staleness of public radio combined with feeble attempts to attract new audiences to a service that probably isn't meant for them does not bode well for the industry. If you want to reach new audiences on public radio, create a format that will do just that. Use *The Drop* in Denver as an example.

I can't resist mentioning one other small example where resistance to change is killing public radio. Thirty years ago, *Weekend All Things Considered*, which airs at 5 p.m. Eastern time on Saturday and Sunday afternoons, had a loyal and reasonably decent audience as a lead-in to *A Prairie Home Companion* on Saturdays. Why is NPR still investing in producing a live newsmagazine at that time in 2024 when radio listening by late afternoons shrinks to almost nothing? Wouldn't it better serve listeners to move it up to a 2 p.m. start time to actually serve listeners?

On-Air Pledge Drives Are Dying

When I worked in public radio, I never realized how torturous pledge drives are for listeners. For decades, pledge drives have been the pipeline for new donors, and that pipeline is drying up. I don't know if pledge drives have actually gotten worse. I just think the approach has gotten more and more stale and painful over the years – and when you're losing listeners, the pool to attract new donors has shrunk.

Inflation

One cannot deny that it cost more to do much of anything in 2024 than it was in 2019. Stations spend more to run their transmitters, buy office supplies, and pay their staff. Plus, it goes without saying that programming from the networks is also not getting any cheaper and, in most cases, not providing the return on the investment it did a decade ago.

The Podcasting Misadventure

Many of the stations that have announced cutbacks have chosen to reduce their investments in podcasting. This week's news of cuts at WBEZ in Chicago focused on scaling back several of its podcasts. Such was the case at American Public Media, WNYC, and Colorado Public Radio. The business model for many station-produced podcasts has just not added up, and stations are stepping back to assess a way forward. No one is suggesting that podcasting is going away. However, the industry must find economic and public service models.

The Federation is Dying

As I look in from the outside, the most serious challenge facing the industry is that the federated system of public radio is outdated and unsustainable for the future. While the branding of "The NPR Network" is a nice way to position NPR to raise money and throw a little of it back to stations, the system needs to think bigger about how it operates going forward. The governance of public radio makes this a considerable challenge, but that shouldn't deter the industry's brightest people from working through this barrier.

Public radio needs to look no further than *Axios Local*, *6AM City*, or *CityCast* for editorial and economic models² that maintain a local presence but significantly reduce the overhead operational costs. CDP is working to do this for station membership activities, bringing best practices and the latest technology to stations of various sizes.

A friend of mine from a university shared with me some core steps for businesses to solve problems that perhaps the industry should be thinking about:

- Identify and define the problem – AND BE HONEST WITH YOURSELF
- Consider possible solutions – BUT DON'T GO IT ALONE
- Evaluate options – BUT DON'T GO IT ALONE
- Choose the best solution – AND BRING OTHERS ALONG
- Implement the solution – THIS CAN'T BE DONE ALONE
- Evaluate the outcome – AND BE HONEST WITH YOURSELF

I hope the headlines for public radio will move from the bad news of layoffs and cutbacks to what it's doing to innovate, serve more Americans, and play a key role in keeping local news alive in communities large and small nationwide.

Note: Several medium-sized market stations have yet to release their FY 2023 financials. This includes stations in Kansas City, St. Louis, Baltimore, and Capital Public Radio in Sacramento, which is under investigation for faulty financial reports.

