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## Media Law Update: This is not a Drill!

2.1.2018

As an industry, we are prepared for the everyday fare of the profession—FOIA denials, OMA violations, spotting defamatory statements, and the like. But we can, and should, do better when it comes to prepping for the extraordinary.

- As a reporter, what do you do when the police threaten to arrest you for newsgathering? What are your rights, and what is the right thing to do *for you* and *for the paper*?
- As an editor, what do you do when a reporter calls you from a holding cell, having been arrested while covering an event? The reporter doesn't want to be there, and you don't want him sidelined in a cell. How do you get him out?
- When is it okay to record people without them knowing about? And what do you do if you recorded them improperly?
- What can you do to protect your phone from being hacked if it's lost or stolen, or seized by police? It's too late to be thinking about a source's confidentiality after the phone is gone.
- How do you handle marijuana advertising to comply with State law, while also avoiding federal prohibitions on mailing those kinds of ads? You don't want to get hit with fines or worse for unthinking violations of law.
- What are the rules for acquiring and using drone photos or footage? The FAA has rules, and it's not afraid to flex its muscle. Michigan has gotten into the act, too. A publication deadline, or responding to breaking news, is not the time to think about them.
- What do you do when a judge wants to kick reporters out of the courtroom? By the time you contact the hotline, you may very well have missed the proceeding you wanted to cover.
- What duties do you or your newspaper have to preserve information when you receive a subpoena? There are usually ways to defeat a subpoena, but the law still imposes obligations on you that start the minute you've been served. If

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it turns out to be the rare occasion when the subpoena is valid, you don't want to be caught in an "aw shucks" moment.

- Do you have the right kind of insurance for these kinds of emergencies? Legal budgets get stretched thinner and thinner each year. The whole point of insurance is to push those budget risks onto someone else. The next time your policy is up for renewal, make sure you have the right coverage.

Everyone likes to make resolutions for the new year. For 2018, make one for your professional life: be prepared for the extraordinary so that you and your staff don't have to worry when it's "not a drill." Consider a newsroom seminar so you and your paper are trained and prepared. Pencil in time for those "what if" legal questions you've been putting off.

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