

OPINION

THE HERALD'S VIEW

Don't charge fee to see court records

California's court system has been hit remarkably hard by the budget cuts of recent years, resulting in layoffs, shortened hours and trials delayed for years. The budget makers in Sacramento obviously understand that the general public has little regular contact with the courts, making them a relatively safe place for slashing and burning.

That has given rise to various bad ideas, including special scheduling tracks for lawyers and others willing to pay bigger court fees — sort of like first-class seating on airplanes. Fortunately, such schemes have gained little traction.

Here's hoping that the latest proposal to help fill a few budget holes never makes it past the thinking stage.

The Administrative Office of the Courts wants to charge a \$10 search fee whenever anyone requests access to a court record or a file. This would be on top of the existing fee for copies of court documents, which would simultaneously rise from \$1 a page to \$2.

The proposed fee isn't going to generate much reaction from the public at large because most people never look at court records. And when someone involved in a court proceeding wanted access to those records, there would be no fee.

But a \$10 search fee would be devastating to newspapers and other news operations, especially relatively small ones such as The Herald. Newspapers this size routinely seek access to five to 10 specific files each week and review dozens of new court filings each month in search of potential stories — many of them about important public business. Most newspapers and TV stations in California would be forced to cut back significantly on their reportage of legal matters, meaning the public would receive much less information about ongoing court cases and newsworthy civil matters.

Missing from many news reports would

be background information on even the most dangerous crime suspects.

According to the California Newspaper Publishers Association, the Administrative Office is pushing the idea because court clerks are putting tremendous effort into wholesale public record requests filed by data-mining companies. Those are firms that collect searchable, computerized files in order to sell the information to companies that perform background checks or for various other commercial enterprises.

It would be difficult to create special rules or limitations for data miners without eroding the public record status of most court files — difficult but not impossible. Such companies could be required to pay for computer programs that copy digital court records without the need for hands-on work by the court staffs. The data miners also could be required to use programs that automatically scrub court records of Social Security numbers and other personal information of the type that should not be broadly disseminated, solving another problem in the process.

It wouldn't be difficult to charge data-mining companies the actual cost of collecting information — a figure that certainly would be much less than \$10 per record.

It could be argued that newspapers, TV stations and the like also are commercial enterprises that should pay their own way. That, however, ignores the reality that legislatures and the highest courts have long recognized that the legal system functions best when the public enjoys meaningful access to court records, and that journalists are attempting to perform a public service much greater than simple retailing of mass data.

The effect of the Administrative Office's proposal would be to greatly reduce the scrutiny of the legal system while doing little to help with the financial crisis in the courts.