



NYSBA News Release

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NEW YORK STATE BAR ASSOCIATION TASK FORCE RECOMMENDS RESCUE PLAN FOR NEWSPAPERS STRAINED BY PRECIPITOUS DROP IN ADVERTISING DOLLARS

In the face of the unprecedented public health crisis created by the coronavirus pandemic, access to accurate and unbiased information is more important than ever. Newspapers across the state are providing near real-time updates for readers and removing paywalls and other barriers to ensure all New Yorkers can get the potentially life-saving details they need.

But newspapers themselves are struggling for their own survival – a situation that has been exacerbated by the pandemic and resulting economic fallout.

A New York State Bar Association task force has [issued a series of recommendations](#) designed to shore up and strengthen the state's newspapers at this critical time as journalists leave the safety of their homes to keep readers informed and advertisers retreat in the face of uncertainty.

"The New York State Bar Association Task Force on Free Expression in the Digital Age began its work long before coronavirus upended life as we know it," said NYSBA President Henry M. Greenberg. "But these times remind us how important it is to have reliable sources of information in our communities, in both urban areas and rural areas," Greenberg continued. "The task force's work is a testament to the bar's commitment to doing what it can to promote and protect the vitality of journalism in New York State."

"Local journalism remains the heartbeat of civic engagement in New York's towns and cities," said David McCraw, deputy general counsel of The New York Times and co-chair of the task force. "But financially struggling newspapers are more likely to be silenced by threatened legal actions."

"The crisis is rarely viewed as a legal issue," said Cynthia S. Arato, co-chair of the task force and a partner at Shapiro Arato Bach. "But the law and the legal profession do not have the ability to alter the financial and technological forces reshaping American

journalism and making certain that vital journalism continues to be published in New York despite the disruptions in the industry."

The task force recommends:

- Creation of a legal referral network devoted to journalism clients that would encourage practitioners to provide pro bono and discounted legal services. While news organizations have not traditionally had access to free or low-cost legal services, the task force believes that doing so contributes to the public good.
- Reforming Section 50-a of the Civil Rights Law, which exempts from the Freedom of Information Law and cloaks in secrecy police misconduct. The law has become a major obstacle for news organizations providing oversight to the activities of local police agencies. The task force calls for its elimination and believes the release of police personnel records should be under FOIL, which governs all other personnel records.
- Amending FOIL so that news organizations with meritorious cases can challenge improper withholding of information without facing prohibitive financial costs. The law should have enforceable deadlines and legal fees should be paid by government agencies that improperly withhold documents.
- Strengthening the state's Anti-SLAPP law. Anti-SLAPP (strategic lawsuits against public participation) statutes provide for early dismissal of frivolous lawsuits that are designed primarily to silence critical comment but New York's law only protects against such suits in government permitting matters such as zoning. The statute should be amended so that its provisions encompass news reporting and commentary about public matters more broadly and provide for a mandatory fee award to a prevailing defendant.

The task force, which explored the financial health of New York's newspapers, found that action was desperately needed to stave off further collapse of the industry. In New York State, there were only 303 newspapers (54 dailies and 249 weeklies) still publishing in 2019 compared to 501 (62 dailies and 439 weeklies) in 2004, a 40 percent decrease. In 2004, New York newspaper publishers distributed 9.3 million copies. By 2019, that was slashed to 3.4 million, a decrease of 63%.

"Local journalism has been in a state of crisis for the past 15 years, fueled by intense disruption and financial distress caused by the popularity of search engines and digital platforms that deliver news and entertainment in various forms," Arato said. "While New York's local newspapers remain an important vehicle for advertising and publication of legal notices, the financial strain has caused local news organizations to shut their doors at alarming rates, leaving many U.S. communities without a daily news outlet and creating so-called news deserts."

"This trend has consequences for our nation, since local journalists are at the frontline of communities, investigating and delivering the news that matters most to residents, and which leads to greater civic engagement and community bonds," McCraw said.