

Online Journalism Credibility Projects



# THE LONGTAIL OF NEWS:

## TO UNPUBLISH OR NOT TO UNPUBLISH

» TORONTO STAR «

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THE TORONTO STAR

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# The longtail of news: To unpublish or not to unpublish

## APME Online Journalism Credibility Project

By Kathy English ♦ Public Editor ♦ The Toronto Star ♦ October 2009

### You be the editor

How would your news organization handle this request from a reader?

*“My name is \_\_\_\_\_. My name was mentioned in two Toronto Star articles discussing a bomb threat at ... (in a public location).*

*The articles state that I am charged with a number of offenses including false message, common nuisance and mischief interfering with property. I had no involvement in this criminal activity and as a result, these charges were withdrawn against me on December 16th, 2008.*

*I am currently an articling student [lawyer intern] at a law firm and face serious damage to my reputation as a result of my name being mentioned in these articles. Searches of my name in online search browsers immediately link to these articles, which unfairly stigmatizes me and prevents me from pursuing my professional goals. As a result, I would like to request to have my name removed from these articles.*

*Please feel free to contact me if you have any questions. Sincerely, \_\_\_\_\_”*

### The new “longtail” of news

Life in the age of Google means that just about everything published by news organizations is now just a few clicks away from anyone with a computer. A news organization’s journalism can now reach more people, in more places around the world, at greater speed than ever before. And news published online, seemingly, never dies.

Of course, the reality is that today’s newspaper has always been tomorrow’s historical record, living on in library archives and electronic databases. But, for the readers and sources news organizations write for and about, the impact of our journalism is greater than ever before. That’s because the Internet provides a highly accessible, easily searchable, nearly permanent repository of everything a news organization publishes.

Sometimes those who are the subjects of news reports want that news to disappear.

Among the many challenges of this “longtail” of news are an increasing number of requests to news organizations from those who are the subjects and sources of news to “unpublish” – a word media organizations have coined to describe public requests to remove content from news Websites.

The reasons for requests to unpublish are varied. Clearly, many regard online reports as more easily altered than print content. Some believe the content report is inaccurate or unfair. Some experience might be called “source remorse” and rethink what they want the public to know about them. Others may be embarrassed by what is written about them; they decide they don’t want the public to know their marital status, or what they paid for their home. In some cases, these requests emerge many months, even years, after original publication when those named in the news understand that through Google and other search engines, the news article in which they are named is easily accessible to the general public.

Others, like the law student above who pleaded with the *Toronto Star* to remove his name from the published reports of the charges he was faced with, are concerned about the impact on their lives of such incriminating published information being so easily accessible online.

Not surprisingly, unpublishing requests occur increasingly in connection to reports of criminal charges from the daily police blotter. The reality that many news organizations do not routinely follow-up on the outcome of these charges and report on acquittals or dropped charges is an issue of increasing concern for news organizations and those they report on.

## **What would Google do?**

Some seeking to make news about themselves disappear approach Google directly, seeking to have the report that names them not appear in search results. Google’s response to such requests is that the information must be changed on the news site where it was published.

“In order for information in Google's results to change, the information must first change on the site where it appears, and this is a change that Google is unable to make for you,” says Google’s online Webmaster Central. “We run into a lot of people who think that Google runs the web and controls all the sites on it, but that's really not the case. The sites in Google's search results are controlled by those sites' webmasters.

“If you contact the webmaster, he or she has a few options. He or she can remove the concerning information, take the page down from the web entirely, or block Google from including the page in Google's index.”

An entry on Google’s Public Policy blog entitled, “Working with News Publishers,” explains how news organizations can block Google from indexing specific content pages. “The truth is that news publishers, like all other content owners, are in complete control when it comes not only to what content they make available on the web, but also who can access it and at what price.”

The article outlines the technical protocol that allows news organizations to determine whether their Websites will be indexed by Google and provides information about how

news organization Webmasters can block Google from indexing even one particular page so that it cannot be accessed through Google search.

"In short, if you don't want to show up in Google search results, it doesn't require more than one or two lines of code."

That article adds that the protocol isn't specific to Google. "All major search engines honor its commands."

## **What should news organizations do?**

Technology makes it relatively easy for news organizations to alter online content. But should we? Given the realities of online publishing, we can expect that this dilemma will be a continuing challenge for news organizations.

Requests to unpublish raise questions about accuracy and fairness, as well as trust and credibility with our readers and the communities we serve. What's fair to readers? What's fair to those we report on? How do news organizations respond to such requests in a manner consistent with journalistic principles of accuracy, accountability and transparency, in order to fulfill the news industry's stated goal of building trust in the news?

Who decides if and when to make news disappear from the Internet?

While this is a relatively new issue, there is a pressing need for news organizations to give thought to these questions to establish clear policies and consistent industry-wide best practices.

This paper, part of the Associated Press Managing Editors Online Credibility Project, supported by the Ethics and Excellence in Journalism Foundation, examines how news organizations throughout North America are responding to requests to unpublish news content.

Information was gathered in several ways, most notably through a North American-wide survey via APME update and SurveyMonkey, to which 110 news organizations responded.

I also visited three news organizations of varying sizes in the U.S. Midwest to learn how each handles unpublishing requests. These organizations were: GateHouse Media, based in Downers Grove, Ill., just west of Chicago; the *Chicago Tribune*; and the *Chicago Sun-Times*.

As well, I queried news ombudsmen through the Organization of News Ombudsman (of which I am a board member) and Canadian editors through the Canadian Newspaper Association.

I also consulted with media lawyers to more fully understand legal prerogatives to unpublish. However, it should be noted that this paper mainly reflects the views and practices of the news industry. It does not provide a full examination of the legal

landscape that informs this issue in the U.S. and Canada. Many of the editors who responded to the survey see this both journalistic and legal issue. Many reported being guided by legal counsel in considering requests to unpublish news content.

## The overall view

As public editor of the *Toronto Star*, rarely a month goes by that I don't talk to someone who wants an article in which they are named removed from the Website of Canada's largest newspaper. For the most part, all public requests to unpublish are handled by my office, often in consultation with the *Star's* legal counsel. In 2008, the *Star* instituted an unpublishing policy to guide us in these requests. The policy says that we generally do not unpublish unless there are legal reasons to do so. We regard published content as a matter of public record whether it is published on newsprint or online.

This policy, similar to that of other larger newspapers including the *New York Times* and the *Washington Post*, is based on the journalistic value of transparency – to erase the record of what has been published would diminish transparency and credibility with readers. That's not to say the *Star* has not "unpublished" content. We have, generally for legal reasons such as inadvertently violating a publication ban.

Those who seek to have news content about themselves removed from thestar.com are rarely satisfied by my explanation of the *Star's* policy. Some of the individuals who approach the *Star* make compelling, persistent personal appeals for unpublishing information about them. Most often, these individuals don't understand a newspaper's greater responsibility to its readers and the public record.

There have been rare instances when I could see a case for overriding the *Star's* unpublishing policy; situations in which it seemed to me that the possible harm to the individual named in the news content may be greater than the value of not removing published news content. I'm keenly aware, however, that it's not my role to be the in-house censor and arbitrator of what is unpublished and what remains published and accessible to readers. Thus, I have worked out a practice of discussing such cases with the *Star's* legal counsel and senior editors.

This is the context in which I approached this project. I wanted to know how other news organizations are handling this issue. How do they respond to unpublishing requests in a manner that is consistent with journalistic principles of accuracy, accountability, fairness and transparency?

Should news organizations ever unpublish online articles? Yes, say 78.2 percent of editors who responded to my survey. But, overall, the survey revealed strong resistance to unpublishing news content. As one editor said, "Unpublishing is a word that doesn't accurately reflect what people are asking. They're asking to censor or rewrite history." Another regards this as a "non-issue" adding that, "printed copies live forever in attics, in libraries, in private residences too."

The survey elicited a wide variation in responses, indicating that there is, as yet, little news industry consensus on how to handle and respond to public requests to unpublish news content from online news sources. Clearly, more thought and discussion of these

questions is needed to establish best practices that serve news organizations and our readers.

Through this research project, I've learned that:

- Public requests to unpublish are becoming increasingly frequent and are expected to increase. At GateHouse Media, which owns hundreds of dailies, weeklies and local Websites throughout the United States, Brad Dennison, Vice-President / News and Interactive division, has given much thought to the issue of unpublishing. He deals with these requests from across the country “more and more” each week. “Five years ago we didn’t hear from people asking us to take things down online but I probably deal with one of these every day now. They all take some level of thought and no two are exactly the same.”
- Though about half of the industry leaders surveyed have evolved policies and practices for dealing with these requests, no overall industry “best practices” have yet emerged. The *Chicago Sun-Times* is among those organizations that do not have a policy. In practice, it would generally deny unpublishing requests. However, editor Donald Hayner also rarely encounters requests to have content removed from the *Sun-Times* Website.
- There is an overall strong reluctance within news organizations to remove published material from online news sources, unless there is a clear and compelling legal reason to do so, or someone’s life is endangered. But, there is also general recognition that fairness to those named in the news requires ongoing accuracy in the online archive, given that readers will easily access it for decades to come. At the *Tribune*, Margaret Holt, standards editor, handles such requests and reports that: “Like many others we are gathering string on this topic, but seem to be headed toward a standard practice, with room for growth as we learn more. Our starting point is that we don’t unpublish but we are open to considering new information and adding that online.”
- Reports of criminal charges, and particularly what could be considered “misdemeanors” from the daily police blotters of communities throughout North America are a significant source of unpublishing requests. For some news executives, these cases present the most vexing dilemmas of the balance between the public’s right to know and the potential harm to an individual by the ongoing publication online and easy accessibility of such information. Dennison has given considerable thought to the impact to individuals of reporting police blotter misdemeanors. He is instituting a “sunset” policy pilot project at some GateHouse publications in which such police blotter reports are programmed when published to “fall off” the news organizations’ Websites six months after initial publication. (More on this later.)

## The survey and its results

The survey, to which some 110 editors responded, presented nine questions, several open-ended. Following are the results, including a sampling of comments chosen to indicate the variation of responses. You can access the full survey online at: [https://www.surveymonkey.com/sr.aspx?sm=V\\_2b9uBh1N79Gj6j1iB9\\_2bvG4eqojVBMin9krVnYxtbe2Q\\_3d](https://www.surveymonkey.com/sr.aspx?sm=V_2b9uBh1N79Gj6j1iB9_2bvG4eqojVBMin9krVnYxtbe2Q_3d)

**1. Should news organizations ever unublish online articles (this includes Web-only content and content that has also been published in the newspaper)?**

**Yes: 78.2% No: 21.8%**

**2. Does your organization have a policy to deal with public requests to unublish?**

**Yes: 49.2 No: 50.8%**

**3. Under what circumstances might a news organization agree to a public request to unublish?**

- The content is viewed as inaccurate or unfair **67%**
- Inflammatory or defamatory language or comments **48.7%**
- Source rethinks what they want wider audience to know about them **0.0%**
- The article contains outdated information that while accurate could be damaging to the source's reputation in the community. **20.9%**
- Concerns that the post contains private information **10.4%**
- Content is not properly attributed or sourced **32.2%**
- Content deals with a minor or other protected person **33.9%**
- Concerns that a law enforcement investigation could be compromised **23.5%**
- Other **39.1%**

### **Comments:**

*"It seems unublishing should be a rare action. Many of the above can be fixed with corrections, etc. but I am sensitive to issues with minors, protected individuals."* **Mitch Pugh, Sioux City Journal**

*"The whole notion of unublishing online stories is so new that there is no universal practice in place."* **Matt Williamson, Enterprise-Journal**

*"The fact is folks are going to have to adjust to the on-the-Web-forever world. We cannot unring the bell."* **Linda Grist Cunningham, Rockford Register Star**

*"We remove material that we know to be untrue or inaccurate."* **Rick Green, Desert Sun**

*“Unpublishing is a word that doesn’t accurately reflect what people are asking. They’re asking to censor or rewrite history.” Kathy Steiner (and Logan Adams), **The Jamestown Sun***

*“The online archive is like a library. Unpublishing is like stealing a book from the library.” **Doug Ernst, St. Helena Star.***

*“Proven threat to the safety of a subject of a story.” **Robert Hunter, Mail Tribune***

*“It is a case-by-case basis, but the bar is very high and would NOT include source remorse or if the news is outdated. It would likely have to be a significant documented error or a legal liability issue or a personal safety issue.” **Kevin Dale, The Denver Post***

*“If there is an error, we correct the information and post a note that the story has been updated.” **Julie Shirley, Bellingham Herald***

*“We don’t unpublish. We might write-thru for any of the above reasons. But, we would acknowledge as much as possible how and why the information was changed.” **Robert Sims, Birmingham News***

#### **4. What legal, ethical, humanitarian or practical reasons should guide these decisions?**

*“We should focus on doing the right thing and thinking like our community. We fall back too often on thinking like journalists rather than real people.” **Chris Cobler, Victoria Advocate***

*“Does the public good of this information outweigh the potential harm? How damaging is the potential harm? Legal decisions are another matter and I would defer those decisions to counsel.” **Mitch Pugh, Sioux City Journal***

*“Our pre-existing journalism guidelines of accuracy and fairness.” **James Flachsenhaar, Daily Record (NJ)***

*“If a correction is necessary, that’s something every newspaper has a policy for and should apply to the Web. But if a story is badly written or someone changes their mind about being quoted (and one hopes newspapers aren’t rushing on to the Web anything they wouldn’t print) the Web should be considered no different from the print product. Once it’s there, it’s there. Sources still have the option of writing to object to a story or clarify their intent.” **K.C. Meadows, Ukiah Daily Record***

*“We have done this in the rarest of cases, based on facts specific to individual cases. It’s largely done for humanitarian reasons.” **Dean Betz, Houston Chronicle***

*“Not all content is equal and we have a somewhat looser standard for online archiving than we do for print. Requests for removal of content are rare and we will comply only if the case is compelling and it doesn’t compromise our organization’s role and standards.”*

**Dan Day, Modesto Bee**

*“We will not remove things just to ease hurt feelings ... there has to be a legitimate case to be made for us to even consider it – or else we lose any defense against future requests.”* **Damon Kiesow, The Telegraph**

*“All the usual journalistic considerations. In general, we weigh the costs – humiliation to a private individual, for example, or damage to a police investigation – against the benefits of public disclosure.”* **Jack Robinson, Fresno Bee**

*“For one, we have an ethical obligation to historians, researchers and readers to uphold the content record we have created... We owe it to those people to keep the record available. We should only remove something if it is libelous—and even then, we should be careful.”* **Peter Crowley, Adirondack Daily Enterprise**

*“If a story appears online that is absolutely false it should be removed, no other reason.”*  
**Alex Miller, Summit Daily News**

**5. If your organization does unublish, who decides when information should be removed from your website?**

- The publisher or their assistant **24.6%**
- Only a top newsroom editor **68.4%**
- Any supervisor in the print or online operation **13.2%**
- Senior librarian **0.9%**
- A senior committee of any of the above **6.1%**
- Other **21.1%**

**6. What process do you take in deciding what should be unpublished from your website?**

*“To my knowledge, we have not had to remove a post. But we would ask ourselves questions that deal with weighing public good v. potential harm.”*

**Mitch Pugh, Sioux City Journal**

*“As an editor, I look into the issue. If it involves legal consideration or questions, I consult with our attorney. We also consider whether it sets untenable or unfair precedent; if it does, we don’t do it.”* **Frank Craig, Pittsburgh Tribune Review**

*“Discussion with publisher.”* **Tom Marquardt, Capital Gazette Communications**

*“Listen to appeal, investigate facts, discuss (perhaps with lawyer), decide.* **Larry Lough, Sauk Valley Newspapers**

*“We take such concerns to our in-house ethics board for consideration.”* **Chris Cobler, Victoria Advocate**

*“Senior executive/editor investigates and provides information to CEO/publisher and to attorney.”* **Chazy Dowaliby, The Patriot Ledger**

*“What's the harm if it remains?”* **Jana Collier, Dayton Daily News**

*“Hear the facts, judge each case on its own merits; if a story was originally published in error, we will take it down.”* **Randal Smithers, Rutland Herald**

*“We assess the harm done in taking the information down versus the harm done in leaving the information online. From there we explore alternatives. Often the requests are from people who have Googled their names and have found articles about arrests or home purchases or other such things. In those cases, we go over the facts of the story, verify that they are true and explain that because the facts are true and were known to be true at the time that the story was published, we won't be taking the story down.”*  
**Meg Martin, Roanoke Times**

## **7. What's fair to those people journalists report about in this world where online journalism lives forever?**

*“This is a serious issue. I'm glad you are raising it. I suspect most journalists will say, 'So what? We publish it, and it should live for all time.' I don't think that's how most regular people would see the issue.”* **Chris Cobler, Victoria Advocate**

*“Their interests have to be balanced against those of readers generally, researchers, et al.”* **Craig Whitney, New York Times.**

*“That our for-the record work can be summoned up at the push of a button instead of a slog through the library stacks causes headaches for media companies but it merely heightens rather than fundamentally changes our obligation to be accurate and fair at the time of initial posting/publication. Except in extraordinary circumstances, we shouldn't take down digital news reports any more than we would track down bound copies or microfilm images of newspapers and cut out information.”*  
**Jeffrey Hileman, Erie Times-News**

*“We should be considering all these issues before hitting publish.”* **Mitch Pugh, Sioux City Journal**

*“To reflect the truth as best we know it. That means update online stories that turn out to be unfair, inaccurate or incomplete. And to follow up with news stories or revisions when things change.”* **Bill Manny, Idaho Statesman**

*“What’s fair is to correct the story so that search engines will pick up the corrected version.”* **Julie Martin, Star News Media**

*“Our Website is the same as our printed content. That can’t be changed just because circumstances change. What’s true is what’s fair.”* **Howard Schwach, The Wave (Rockaway, NY)**

*“That we be accurate and following general journalistic practices, be fair. But it is not, for example, our job to expunge a story saying someone was convicted of a crime simply because a court expunged the conviction. We’ll publish a follow up on the court disposition but we won’t take the story down that was accurate when it was written any more than we would rip it out of the print editions in our newspaper library.”* **John Lampinen, Daily Herald/Paddock Publications**

*“If something happened, it happened. If it was said, it was said. We don’t want to set any unpublishing precedent where we are rewriting history.”* **Paulette Haddix, Post-Tribune of Northwest Indiana**

*“In this day and age, who knows right now.”* **Judy Krieger, Ottumwa Courier**

## **8. What measures other than unpublishing does your news organization undertake to address concerns of those seeking to have online content removed?**

*“We issue corrections and editor’s notes (with full transparency and clear indications as to what we are correcting, clarifying) whenever errors or inconsistencies are found in stories. We also take significant time to listen to and address the concerns of people who would like us to remove content. The answer isn’t always going to be a flat no. It’s always worth a conversation. And it’s with a clear and detailed explanation. We always engage those who come to us and help them find an alternative solution (building one’s Web presence perhaps).”* **Meg Martin, Roanoke Times**

*“We offer to update stories to remediate problems so that the new story will show up alongside the old when a search is made.”* **Howard Schwach, The Wave (Rockaway, NY)**

*“Our consistent philosophy is to add information, not subtract. If a reporter has missed the point of a story or neglected an important aspect, we follow up with another story. We invite people who have complaints to write letters to the editor. Realistically all we can do to correct the record is to make a good faith effort to get it right in continuing coverage.”* **Jack Robinson, Fresno Bee**

*“We would be willing to publish a correction/update, or do a new story in certain situations. We also point out that while we may be a source of the info – it is also already embedded in search engines, court records, other blogs, other newspapers etc. Even if we remove something - that does not wipe history or the Web clean.”*  
**Damon Kiesow, The Telegraph**

*“Update the story to reflect developments or correct inaccuracies or incompleteness. This can be done in the original story or through the addition of a box or editor’s note.”*  
**Bill Manny, Idaho Statesman**

*“We do not unpublish, but if there was an error or later information we did not publish that casts a different light on an archived article, we append a correction or an ‘addendum’ to it.”* **Craig Whitney, New York Times**

*“We remove the content or we update the content.”* **Eric Peterman, The Journal-Standard**

*“We explain that just because an item is removed from the Website other digital forms of it will exist.”* **Donn Friedman, Albuquerque Journal**

*“We counsel people that there are services that can drive down the item in a Google search. We tell people that their best course is to reveal their background to potential employers and others.”* **Kathy Best, Seattle Times**

*“If we are threatened with legal action and are convinced that the information published is incorrect and libelous, we will edit it. We also will edit content – or place a correction within the story – if it is proven to be incorrect. And we will edit content if the subject(s) of a story can prove to us (usually through police confirmation) that the story puts them in danger. Our first preference in all cases is to edit the story and place an editor’s note or correction in the story indicating it has been changed.”* **Robert Hunter, Mail Tribune**

**9. Can you provide an example (or examples) of unpublishing dilemmas your organization has faced in recent months? What was the resolution?**

*“Most – and there are not many we have seriously considered – involved minor criminal charges that were later dropped long ago, but, for various reasons, not reported in print because the cases were too old to merit a follow-up story. We removed those from our system.”* **Frank Craig, Pittsburgh Tribune-Review**

*“Police asked us to take down information that they felt would compromise an investigation even though it had been published in the newspaper. The suspects were out of town and might not have seen the newspaper. We did it because the police concern was great and there were no adverse consequences to taking it down.”*  
**Laurence Beaupre, Times-Tribune/Times Shamrock Communications**

*“One of our former columnists had written about a couple – the man was facing immigration issues. Some years later, the man wrote to us asking that the story be removed from our archives because it was hurting his ability to get a job. I discussed this with the managing editor, and we decided not to remove the story from our archives. The column did not defame the man or portray him in a bad light. It listed his then immigration problems and supported his cause. We didn’t think the man presented a good case to get the information removed.”* **Anjuman Ali, Wisconsin State Journal**

*“A local man was accused of sexual assault of a minor and was arrested. The police discovered several days later that the minor made up the story, but the arrest story had already been put online. We updated the story, even though the arrest was accurate, but it remained in Google with the original (not updated) teaser. Some months later, when the accused applied for a new teaching position out of state, the teaser to the story popped up and created a serious problem for him. We did our best to get it off the Google index through all of their normal procedures, but I believe the accused eventually had to get a lawyer to have it removed. We removed the original story in hopes that when Google re-indexed, it would disappear. But it took more than 30 days for it to vanish and I suspect it's still out there somewhere in the ether, just floating around waiting to strike.”* **Freda Yarbrough, The Advocate**

*“Plagiarism discovered in one column; all columns by that author removed. Also a woman was being stalked about her name, address in listing.”*

**Tom Marquardt, Capital Gazette Communications**

*“Unsuccessful candidate for mayor now wants everything posted about him “unposted.” Claims that since he is no longer a candidate all the information is no longer relevant and is now an invasion of his privacy. We have respectfully said no.”*

**Linda Grist Cunningham, Rockford Register Star**

*“A woman accidentally uploaded a nude picture of herself when she submitted photos to an online gallery. She asked that we take it down and we did.”* **Jana Collier, Dayton Daily**

*“City utility board met and accepted bids for wind turbine generators. The winning bidder was upset that the city talked about prices and conditions, which was properly reported as public information. They were afraid competitors would gain advantage in their bids. City asked us to remove the story but we refused.”* **Kevin Sweeney, The Journal**

*“A real estate developer claimed that a 6-month-old story about a lawsuit contained unfair/inaccurate claims and prospective clients were Googling him and seeing the accusations. But the suit remained active and the plaintiff had not withdrawn the charge so we committed only to revising/updating based on what happened in the suit.”*

**Bill Manny, Idaho Statesman**

*“A man threatened to sue us because we refused to unpublish a story. He had been arrested a year ago for indecent exposure, the case had been expunged and he wanted us to unpublish the police report from that day in our online archives. We explained that just because the case has been expunged from his criminal record it does not place our report on that day following his arrest in error. He is not happy and is considering legal action.”* **John Moseley, Big Spring Herald**

*“A new reporter switched the name of a suspect with the reporting party, causing an innocent man to be identified with a particularly embarrassing crime. In those cases, we felt justified to remove the story. He eventually sued for libel and those actions were helpful to our defense.”* **Alex Miller, Summit Daily News**

*“The best example is the most recent case from several years ago regarding an in-depth story on a heroin addict who, likely acting with impaired judgment, gave a reporter on-the-record information that in retrospect might not have been reliable. Years afterward, she cleaned up, got an education and started seeking work as a paralegal and asked us to remove the story to prevent it from interfering with her future. We agreed.”*

**Dean Betz, Houston Chronicle**

*“A restaurant owner complained that a Google search turned up a years-old unfavorable review while failing to turn up a more recent favorable review. He demanded under threat of lawsuit that we remove the earlier version from our archives and from every server in cyberspace. We refused and referred him to Google.”* **David Bailey, Arkansas Democrat Gazette**

*“A real estate agent living 400 miles outside our circulation area had the same name as a thief arrested in our town two years ago. He wanted the story removed. We listened to him, explained that the story was part of the historic record of crime in our community, which should be available to researchers as part of the public record. He was not happy and continued to pester us.”* **Doug Ernst, St. Helena Star**

*“The most common example is a case of someone convicted of a crime. Then the courts expunge the record and the person involved comes to us asking that we take it out of the archives and notify the companies that contract for our content to take it out of theirs. The debates sometimes get heated. Our response always has been we publish accurate information. If there is anything inaccurate about the previous report, we’ll address it. We’ll produce a follow-up story. That response seldom mollifies the person making the request.”* **John Laminen, Daily Herald/Paddock Publications**



## Conclusions and recommended “Best practices”

**1. We are in the publishing business and generally should not unublish:** News organizations should start from the principle that published content is part of the historical record and should not be “unpublished” from the online archive. News organizations do not rewrite history or make news disappear. Generally, survey respondents were firm and clear on this starting principle.

**2. Put a clear policy in place:** News organizations and readers will be best served by creating an “unpublishing” policy that stipulates the above principle and makes clear that while the online archive is more accessible to the public and can be altered easier than print content, it is no different from the newspaper archives that have always existed. The policy should be transparent and must be applied consistently.

**3. Take time to explain your policy to readers. Help them understand:** Newsrooms need to act in the knowledge that readers and those who seek to have published content removed may not understand the media’s journalistic reasons to resist unpublishing. Many see the online article as an easily altered version of the story. We should make great effort to explain our unpublishing policy and help those who seek to have published material removed understand that this is an issue of integrity and credibility and reflects our sense of responsibility to our readers, our community and the historical record. (Suggested explanation script follows at end.)

**4. Unpublish for the right reasons:** There may be some *very rare* circumstances where it is deemed necessary to remove content from the published archive. In most cases, this would be for legal reasons, including defamatory material, material that is in contravention of a publication ban or other legal restrictions. Ideally, an organization’s lawyer would be consulted in these instances. Serious consideration to an unpublishing request should also be given when someone’s life may be endangered.

**5. Source remorse is not a right reason to unublish:** We should not remove published information because sources changes their minds about what they told a journalist, or decide, following publication, that they do not want to be identified in the news. If the information was gathered fairly and reported accurately, it is part of the public record and should not be altered.

**6. It’s fair to be humane:** Fairness to those named in the news means that we might sometimes unpublish content becomes it is deemed to be the right thing to do in the circumstances. There may be some *rare* instances when editors and publishers determine “humanitarian” reasons for unpublishing material that may be harmful to an individual. Any decision to remove content needs to be weighed against the public’s right to know, the historical record, and the reality that the article may be cached in search engines and might not disappear from the Internet. Content that was also published in the print product will also remain in the print archive.

**7. Unpublish by consensus:** No one individual within the organization should decide when to “unring the bell” and remove published content. These decisions should be made by consensus of several high-level news executives. This provides recourse for those publishers and editors who may field such requests from advertisers and powerful people in their community who seek to influence the public record.

**8. Ongoing accuracy is our responsibility:** Though we should resist unpublishing, we have a journalistic responsibility to ensure the ongoing accuracy of content published online. In some cases, further reporting may be necessary to verify new information, especially in cases involving charges against individuals named in the news. If we err, or if new relevant facts emerge, we should correct and update online articles. Transparency with our readers demands that we indicate that an article has been edited to correct or update.

**9. Unpublish comments that violate commenting rules:** An unpublishing policy should pertain to staff-generated and freelance material published by the news organizations. Online user-generated comments that violate an organization's commenting policies can be freely removed from the organization's website at the discretion of the news organization. We exercise discretion on which comments to publish – and we should exercise the same discretion in deciding when comments should be unpublished. (Note: This paper did not delve into the vexing issue of online comments but several survey respondents raised the matter.)

**10. Consider the implications of publishing before publication:** In a digital world in which all news and information is easily available to anyone with a computer and Internet access, the onus to publish ethical and excellent journalism that is relevant to the community is more important than ever. As several survey respondents pointed out, publishing in this digital era means that we should be considering the implications of what we publish well before words and images are committed to paper or Web space. This is especially important in relation to the reporting of criminal charges, and particularly those of misdemeanors such as shoplifting and public mischief. A fuller discussion of this issue follows.

## Crimes and Misdemeanors

Have you determined how you would handle the unpublishing request presented to the *Toronto Star* by the law student charged with mischief in connection to a bomb prank in a public place?

Two articles about these charges were published in the *Star's* print edition and online. The charges were dropped before the case ever came to trial. The young man came to the public editor's office several months later when he realized that when he Googled his name, the two *Star* articles about the charges were the first things anyone would read about him – well above reports of awards he had won as a law student and in high school.

I explained the *Star's* unpublishing policy. This policy states that while we indeed take seriously concerns of inaccuracy and will correct articles online, just as we do in the newspaper, we do not unpublish articles from our Websites. I told him that we did have a responsibility to follow up on reporting that the charges had been dropped (we had not done so at that point) and we would add a note to the top of the article to indicate this fact (once we verified with the courts).

This was little satisfaction to a young man who has completed law school with honours, and is now job-hunting and looking to his future as a lawyer. He is of course concerned that the easily accessible reports of this incident in which he was charged will affect his job prospects and indeed, his entire future.

His defence lawyer characterizes this as a case of this student “being in the wrong place at the wrong time.” The student was with a friend who left a note in a public place making a joke about a bomb. He did not know that the friend was going to do this and he did not participate in the prank. Police laid charges against him because he was with her. Charges were dropped before the case ever came to court.

Should the *Star* have unpublished these reports? Certainly, this young man made a compelling case and we gave serious consideration to making an exception to our unpublishing policy on humanitarian grounds. But, in fairness to others who had made similar requests in recent months, and to this young man, we decided not to unpublish it but to update the *Star's* reports with a note indicating the charges had been dropped before the case came to trial.

Did the *Star* do the right thing here? Was following the policy the fair thing to do or could a humanitarian case be made to unpublish reports of this man's arrest?

Clearly, such cases from the daily police blotter are proving to be vexing for news organizations, particularly in regard to reports of less serious misdemeanors, charges that are dropped before trial, or convictions that are expunged. On one hand, most journalists would argue that news organizations do not rewrite history; we report what happened: “Whatever is true should remain, no matter what,” said one survey respondent. Or as another put it more bluntly: “Sorry, life isn't fair. Journalism's job isn't to clean up your driving record so you can get a job, is it?”

*Chicago Sun-Times* editor Donald Hayner is generally opposed to the idea of unpublishing content once it has become part of the public record. His view, much like many of the editors who responded to the online credibility survey, is that news organizations should not erase history. When I present him with the scenario of the law student charged with mischief, he makes clear he would not unpublish those reports even after the charges were dropped. Those charges and the aftermath are part of this young man's "story" moving forward in his life now, Hayner says. He raises the hypothetical scenario of this young man choosing to one day run for political or judicial office. "Wouldn't we want to know about those charges, what happened and how he handled himself?"

At GateHouse Media, Brad Dennison, VP/News and Interactive has a somewhat different view on what's fair in reporting minor charges from the police blotters of the many smaller communities his newsrooms report on. The organization has recently instituted a "sunset" policy pilot project within its New England Group. Under this policy, most police blotter reports will be removed from the organization's online archives six months after first publication. Dennison is aware that the reality of search engines means these articles may not disappear from the Web entirely.

Dennison sees this as an ethical and moral issue for news organizations: "How long does something minor like a shoplifting charge have to follow someone on the Web. My moral barometer tells me that's not fair. There's no rule that says this stuff has to live forever."

He's also urging editors to think more about what they publish in their newspapers and online in the first place, advising that not all police blotter items likely need to be reported.

"These decisions should be made on good journalistic judgment – is it fair? Is it accurate? Is it news?"

The *Chicago Tribune's* Margaret Holt has also been examining this issue. The *Tribune*, for example, has considered a request to remove a two-paragraph article published on the *Tribune's* Website but not in the newspaper. That article, based on a police report, named a woman and reported that she had been charged with criminal trespass to state property after she refused to leave the local police department. It also stated that she shouted obscenities and racial slurs. The accuracy of the report was not disputed. The charge was dismissed several weeks later. Months later, the woman sought to have the report unpublished. The paper has thus far refused.

Like Dennison, Holt raises questions about whether newsrooms should be giving more advance thought about publishing such minor police blotter items and, especially, whether news organizations must name those charged with misdemeanors, given the likelihood that not all reports of such minor charges can be followed up.

These are important questions for the news industry. As news organizations across North America increasingly evolve into "Web-first" newsrooms and the pace of the news cycle ever hastens, clearly the time is at hand to confront the implications of the longtail of news.

To unpublish or not to unpublish – this is our question.

## Building trust with readers and those in the news

Those who approach news organizations seeking to have digital news content unpublished are generally emotional, persistent, and have great difficulty understanding journalism's greater responsibility to readers and the public record. When it's their name in print, they don't easily accept the view that readers are not served when stories simply disappear.

In an attempt to gauge the reaction of readers, I recently wrote a public editor column explaining the *Star's* unpublishing policy and outlining the ethical issues of removing digital content. I included brief outlines of 10 unpublishing requests that various North American newspapers, including the *Star*, have faced in recent months.

I had expected there would be a disconnect between the views of journalists – who are generally opposed to removing published content — and the views of readers.

I was surprised to discover that the views of those readers who responded to the survey were, for the most part, in line with those of editors. The majority of the 50 or so readers who responded in online comments and in email were aligned with the editors' decisions on whether to remove specific content.

Many of the comments echoed those of the editors.

*"This whole aspect of unpublishing news sounds very '1984-ish' and in a broad sense is revising history."* **Dave Minden**

*"In general, as a lover of information, I think nothing should ever be 'unpublished' unless there is a gross error made. Records are records. It's part of the collective body of human experience. Once published, there is a duty to preserve this record."*

**Craig Urquhart**

*"I have reviewed the situations you set out in your column and I would deny most of the requests to unublish the stories."* **Ian Cox**

*"I write as a professional ethics practitioner, a past chair and one of six founders of the Ethics Practitioners Association of Canada. I agree with 'never unublish' as the default. The case must be made for any exceptions, since once something has been made public it can never be legally or actually private. Anything the Star has published since it went online probably survives somewhere on the Web anyway, in mirror sites or pieces."*

**Jane Garthson**

*"I would generally not unublish except in extraordinary circumstances."* **Bob Coulter**

*"The reach and penetration of the electronic medium is vastly greater than any printed publication and theoretically at least, it endures undiminished and conspicuously available forever. At the same time, it does afford you the ability to 'unublish.' So, print rules don't necessarily apply, and should perhaps be replaced by a more discretionary practice."* **Les Morrison**

*“For what it's worth, based on the 10 samples given in your column from individuals seeking to have the newspaper ‘unpublish’ something written about them when it was relevant – and presumably accurate – I’d tell them it's history and you cannot change history. Maybe modify some aspects without erasing the essential or original truth.”*

**Ken McCracken**

*The managing editor, or editorial board should have discretion to unpublish an article where, in his or her opinion, the hardship costs are greater than the public interests being served.”* **Dave and Alison Burkett**

While readers may indeed understand the principles at stake here, those seeking to have content unpublished are usually not so open to our reasoning. It’s important that these people receive a full and fair hearing from news organizations. We need to understand what’s at stake for these people by our continued publication of content that they believe is, in some way, harmful to them.

It’s also vital to explain to them that a decision not to remove content is in line with the news organization’s policy that is intended to serve readers and build trust. Here is a suggested script (or online FAQ) to help explain that news organizations regard published content as a contract with readers and the public record.

## **A suggested script**

*Thank you for writing (calling). We are guided by a newsroom policy that says it is inappropriate to remove published content from our Website. If an article is inaccurate we will correct it and tell readers it has been altered. If relevant new information emerges, we will update the article or do a follow-up story.*

*As with our newsprint version, our online published content is a matter of public record and is part of our contract with our readers. To simply remove published content from the archive diminishes transparency and trust with our readers and in effect, erases history. This is not a practice engaged in by credible news organizations or in line with ethical journalism.*

## **Moving forward in your newsroom: Questions to consider**

1. Have we established our organization's baseline view on the question of removing published content from our Website?
2. Have we created an unpublishing policy that reflects this view?
3. Have we explained our policy to readers overall and those who seek to have published content removed?
4. Have we considered those situations when we might veer from policy and decide to remove published content?
5. Do we have a clear understanding that some will want information to disappear because they don't like what was written about them or have changed their mind about being interviewed?
6. Have we listened and considered the full extent of potential harm to an individual by continued publishing against the journalistic value of transparency and trust with readers?
7. Have we determined who in our organization can decide to unpublish Web content?
8. Are we clear about the measures we will take to maintain the accuracy of published content and the need to be transparent about any alterations to online content?
9. Have we considered how we will handle requests to remove user-generated content?
10. Do we give careful consideration before publication to what we publish online and in the newspaper in the face of the digital reality that has heightened the impact of our journalism?

## Related Reading

**Google Webmaster Central: Removing someone else's pages from search results:**  
<http://www.google.com/support/webmasters/bin/answer.py?hl=en&answer=156094>

**Why Google won't remove that page you don't like (Google webmaster blog):**  
<http://www.matcutts.com/blog/remove-page-from-google/>

**Working with news publishers (Google Public Policy blog):**  
<http://googlepublicpolicy.blogspot.com/2009/07/working-with-news-publishers.html>

**Rewriting history: Should editors delete or alter online content?:**  
<http://www.ojr.org/ojr/stories/070822Zwerling/>

**When web print stories disappear, the meaning of 'archives' fades:**  
<http://www.ojr.org/ojr/stories/050607glaser/>

**Removing content: When to unring the bell:**  
<http://www.poynter.org/column.asp?id=101&aid=129083>

**Why the Star does not unpublish:**  
<http://www.thestar.com/comment/columnists/article/580105>

**Your past is just a click away:** <http://www.thestar.com/comment/article/693930>

**Kansas City newspapers ordered to remove stories from Web sites:**  
<http://www.firstamendmentcenter.org/news.aspx?id=18243>

**When bad news follow you:**  
[http://www.nytimes.com/2007/08/26/opinion/26pubed.html?\\_r=3&n=Top%2FOpinion%2FThe%20Public%20Editor&pagewanted=all](http://www.nytimes.com/2007/08/26/opinion/26pubed.html?_r=3&n=Top%2FOpinion%2FThe%20Public%20Editor&pagewanted=all)

**Blaming the Times for your bad reputation:**  
<http://www.slate.com/id/2172701/pagenum/all/>

**Why we unpublished:** <http://fort-greene.blogs.nytimes.com/2009/07/10/why-we-unpublished/>

**Birmingham Mail: Editors Chair Blog: Should newspapers remove old stories from the web when requested?**  
<http://www.martinstabe.com/blog/2009/02/10/birmingham-mail-editors-chair-blog-should-newspapers-remove-old-stories-from-the-web-when-requested/>

**The Readers' Editor (Guardian) on unpublishing:**  
<http://www.guardian.co.uk/commentisfree/2008/oct/20/blogs-publishing-record-privacy>

**The Readers' Editor on difficult decisions about erasing little bits of history:**  
<http://www.guardian.co.uk/commentisfree/2007/apr/16/comment.pressandpublishing>

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## Author's bio

Kathy English has served as the *Toronto Star's* Public Editor since May, 2007. She began working in daily newspapers in 1976 and has reported and edited for five Canadian daily newspapers. Kathy was a professor of newspaper journalism at Ryerson School of Journalism from 1989 to 1999. She then worked in "new media", launching websites for two Canadian media companies. She served five years on the board of the National Newspaper Awards. Kathy holds a Masters degree in Canadian history.

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