

Unpublishing requests gaining new legs around the country

Several years ago, this column addressed the issue of calls that come in from readers seeking to have stories taken down from the paper's archives. Not a new issue, it arose several years ago again as the state passed a bill allowing some felonies to be expunged from the Case.net records. (See the September 2018 law column linked on MoPress.com)

Since that time, the issue has been relatively quiet on the national level. But recently, it has come to the forefront again. In January, the *Boston Globe* announced it would initiate a program called "Fresh Start," allowing readers to complete an online form to request a story about them be updated or anonymized. That form goes to a committee of 10 journalists from the paper and its sister site, Boston.com, who consider the request. One discussion of that process mentioned that requests from public figures are subject to "intense" scrutiny.

After consideration of the requests, the panel can choose to either "deindex" the story, a process where a search for a name will not turn up a link to the story – the only way the story can be located is to know exactly when it ran or on what page, for example. It is not visible for the computer "spiders" who search all online content in order to generate pertinent links such as Google and other search engines produce in response to a search.

In other cases, this panel will decide to actually remove the entire story, to "clean" the "digital slate" of

the requester. A story discussing this paper's process appeared in *Slate Magazine* on February 16, 2021. "This isn't about rewriting history," the *Globe's* managing editor for digital content noted. Rather, the editor said, the purpose is "an acknowledgment that people can move on with their lives and that we don't want our journalism to become a barrier to that."

The *Slate* article, and others on similar subjects, point out that the 2020 "Black Lives Matter" movement raised awareness that there are many cases where arguably the criminal justice system has disproportionately affected those persons unable to afford the significant cost of a high quality legal defense team. Often those in that category are also non-white defendants.

These are difficult questions to wrestle with, which is why a member paper called me a few weeks ago to discuss this issue again. They had encountered a similar request and were pondering what response was appropriate.

Legally, there is not a right or wrong answer. The story was true when the story was published. The story cannot be libelous because it was, and is, true, whether or not court records presently visible would substantiate it.

At the same time, I see what has happened in Kansas City in the past six months and am sure

similar events are occurring all over Missouri. J.C. Nichols, a real estate titan in the city's history, developed the Country Club Plaza and numerous housing communities surrounding it

through the use of restrictive covenants barring persons of a certain race or color from purchasing property in those neighborhoods.

While it is true that times have changed, along with peoples' attitudes about many issues, it is undisputable that this character trait was wrong and should not be held up for adulation today.

Even the *Kansas City Star*, that considered its founder William Rockhill Nelson, an icon of journalistic history, and that ran his photo on its editorial page still, more than 100 years after his death, made the decision earlier this year that its award-winning newspaper had a history of negative coverage toward non-whites and that it needed to do a better job of covering the entire community. In a public apology, it turned its back on its history and started anew.

The author of the book "Delete: The Virtue of Forgetting in the Digital Age," Viktor Mayer-Schonberger, said "If we have a digital tool that continually reminds us of the past, then we have undone a key feature of human cognition and that is the ability to let go of memories."

Some of these decisions will not be easy. Trying to determine a proper standard for such actions will take some tough thinking and there will be papers that, rather than do that heavy lifting, will choose to just leave their past practice alone. Legally, that decision is fine.

But newspapers have always been forced to decide what is "news" for their readers, and what isn't "news." I believe they'll do fine making that decision still, whatever it is.

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