

# You need not expunge archived crime reports

*'You don't get to change history.'*

Periodically, newspapers call the hotline concerned over a reader's letter complaining that the newspaper's searchable online archives contain a story about the person's arrest on a criminal charge. Inevitably, there is a demand that the newspaper remove that person's information from the archives and, often, a threat of suit if the newspaper refuses.

With the growing bulk of information, especially court information, available online, those with criminal convictions have discovered information about earlier mistakes is now much more readily available to the public. It can cause greater difficulty hiding these convictions from potential employers, from those conducting background searches for various professional reasons and from countries that will not allow entrance to those with criminal records.

State legislators, faced with constituents who complain they want this information protected from public disclosure, struggle with whether court records should ever be closed. Many powerful groups, like Mothers Against Drunk Driving, don't want that information closed. So where should the line be drawn between information the public has a right to know and information that, for one reason or another, is no longer relevant to the public?

In the last two decades, many states passed laws allowing expungement of some criminal records. Missouri is among those states, with its first expungement statute (which can be found beginning at Section 610.122, at the end of the Sunshine Law) passed in 1993.

Missouri's statute is very limited and covers only arrest records where the

arrest was based on false information, where there is no probable cause at present to believe the person committed the offense and where no charges will be pursued in connection with the arrest. In addition, the person must have no prior or subsequent misdemeanor or felony convictions.



Jean Maneke, MPA's Legal Hotline attorney, can be reached at (816) 753-9000, [jmaneke@manekelaw.com](mailto:jmaneke@manekelaw.com).

(You should remember that arrest records under such circumstances are closed records anyway under the Missouri Sunshine Law, so we are talking about removal of what is otherwise a closed record. This is not a record that is available to the public online or at the courthouse unless the person seeking the records meets certain specific requirements which would give him access to such closed records.)

Some lawyers advertise that they will assist clients in expunging their arrest records. There are even more companies advertising on the Internet that they can remove these records from the Internet.

One reason they cite is that the actual conviction was probably for a lesser offense, but the publicizing of the arrest details probably included the original of-

fense charged, which no doubt was more serious than that of the final conviction.

In fact, there's even a book out called "How to Fight Google," which claims it shows "how to take control of the 1<sup>st</sup> page of Google and how to build the perfect E-Profile for prospective employers."

Still, the reality is that none of this should impact you as a newspaper publisher. Your newspaper serves to chronicle history. What you have written was true at the time you wrote it. (At least, we're counting on that being the case!)

The fact that charges were amended, or dropped, or otherwise changed subsequent to the arrest doesn't change the facts as they existed at the time you reported them.

What is even more important is that you understand you have no obligation to remove this information from your website. Courts have recognized this – in fact, just last summer a Pennsylvania court that erroneously entered an order expunging certain records, including newspaper records, moved swiftly to vacate that order as to the newspaper involved.

The judge called it "a breakdown under the rush of the system," and acknowledged that the courts had no power to enter such an order. (Indeed, the very entry of the order was counterproductive in that nearly 300 stories were written about the expungement efforts.)

"You don't get to change history," said Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press, Arlington, Va.

That's a good reminder to tape to the top of your computer monitor for the next time a call like that comes in!

## Kay Hively publishes Black history stories

NEOSHO — Author and editor Kay Hively, who has written a number of serial stories for Missouri Press Foundation's Newspaper In Education program, has published a collection of stories about Black history titled "They Trusted God and Pressed On."

The stories were written by Hively and her husband, Russell, for the *Neosho Daily News* and the *Neosho Post*. They

deal with Black history and include articles on Calvin Jefferson, a Granby businessman who was a friend of Dr. George Washington Carver; the Ozark Rockies, a Black baseball team; Neosho business leader Jim Gage, and many others.

The book can be ordered for \$15 by calling Hively at (417) 451-3415.