

Publishing (and unpublishing) the names of people charged with minor crimes: whether, when and why (not)?

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The issue

In light of recent social reckoning and increased awareness of systemic inequality, some journalists and news organizations are questioning the practice of naming the accused as a part of routine reporting on incidents of minor crime. At the same time, news organizations are also facing requests from people named in archived reports who are asking that content be removed from online access.

In this paper, we will explain why this practice has been called into question and offer best practices to assist newsroom decision-makers wrestling with the question of whether to name people charged with minor offences. Recognizing that “minor” is subjective, for the purposes of this discussion the category includes such charges as shoplifting and lesser driving infractions; conversely, coverage of major crimes, criminal trials and/or investigative reporting are outside the scope of this paper.

Background

Publicizing the names of people charged by police has traditionally been an unquestioned aspect of daily journalism, offering an answer to the first of the proverbial “Five Ws.” Such reporting has historically been seen as facilitating public scrutiny of community safety and policing. It is important to the concept of open courts, holding the powerful and the responsible to account. As well, naming the accused can be of value given that some seemingly routine stories become important at a later date.

However, in light of recent societal developments such as Black Lives Matter, government efforts at reconciling historic and ongoing wrongs against Indigenous communities and awareness of the ways traditional crime reporting has been unduly stigmatizing for some groups, newsrooms must recognize that these stories can engage with race, class and privilege in ways that are troubling and unfair. Significant research shows the extent of over-policing in

racialized communities and also illustrates how that coverage can reflect societal priorities and/or can stigmatize communities. Further, a focus on spot-news coverage of minor crimes contributes to stereotyping by displacing opportunities for better-rounded news coverage in affected communities.

Emerging critiques of *always* naming names

Several key arguments have come to the fore, prompting some journalists and news organizations to rethink the practice of always naming names. The most prevalent of those arguments are set out in brief below.

Systemic bias in policing: As a society, we have only recently started conversations about Canada's colonial legacy, an aspect of which is policing, which in some cases has a historic legacy tied to control of Indigenous and minority groups. Modern policing is still tasked with upholding the law, preserving order, and protecting property; in addition, police are often required to be first responders in mental health and social work crises for which they are not trained. Police reliance on longstanding (and often problematic) practices combined with a lack of mental health crisis response education can lead to biased decision-making about which crimes are investigated and which suspects are charged.

Police media relations practices: Police departments vary in their practices in providing names of people charged with crimes. Some may view disclosure of names as discretionary, relying on any number of factors—almost always unstated—to decide whether to publicize the name of an accused person. This leads to inconsistency from one jurisdiction to the next. Professor April Lindgren's research into police media relations tactics recognizes that, in an era of perpetually shrinking newsroom budgets, there is a prevailing view that police press releases can be used as news content with little investment of resources; Lindgren argues that journalists need to exercise editorial discretion over this content and not simply disseminate the information without questioning its content. Lindgren also points to evidence that a focus on reports of crime can paint an inaccurate picture of a neighbourhood, reduce citizens to caricatures, and draw resources away from more informative reporting.

Diminished newsroom resources: Newsrooms may have fewer journalists dedicated to covering courts and reporting on developments in criminal cases in a manner consistent with the public interest.

In many instances, the local courts may have neither the technology nor the staff to provide timely access to information or to answer a journalist's queries about charges or disposition. As well, some charges may take months or years to be resolved, making it challenging for a newsroom to follow and report on the outcome of a charge. This means that, while charges may be withdrawn or an accused person found not guilty, the original story of a criminal charge being

laid against a person will exist as part of the public record with no guarantee that further developments in the case will ever be reported.

The internet never forgets: Unlike in previous decades, the so-called long tail of digital news means a relatively minor criminal charge can have an outsized negative effect on a person's life, regardless of the outcome of that charge. In 2021, the Boston Globe recognized a need to revise the public record by announcing a program it calls Fresh Start, an initiative that allows people to ask to have information about them removed from or added to old stories, to have their names anonymized, or to have the stories delisted from Google searches. In announcing the project Jason Tuohey, the Globe's managing editor for digital, noted that the paper "was never meant to be a permanent obstacle for someone's future, especially not in cases where a minor crime, transgression, or embarrassing moment follows them at the top of a Google search result forever."

A new approach in action

The Boston Globe's aforementioned "Fresh Start" program is part of an emerging approach to crime reporting. The Associated Press has taken a stand against naming names in case of minor charges and, in Europe, various press standards prohibit naming the accused under some circumstances or in ways that interfere with rehabilitation and reintegration into society of a person convicted of a crime.

A number of Canadian news outlets have formally or informally adopted the default practice of not routinely naming those charged with minor offences, with deviation from the practice considered on a case-by-case basis, for example when a public figure is involved or the offence itself has news value.

The National NewsMedia Council recognizes the importance of police and court reporting, as in [this decision from 2017](#). More recent social and equity issues underscore the need to continually evaluate complexities, as shown in [this decision from 2020](#). The NNC now advocates best practices that consider the impacts before naming those charged with minor offences. It supports news organizations' decision to undertake case-by-case reviews as in [this decision from 2021](#) for those suffering hardship. Remedies that were unpalatable in other times, such as taking out a name or removing a story from the search engine, can sometimes be seen as the right course.

To name or not to name? Factors and options to consider

Traditional news values are worthy of consideration in assessing whether a name is relevant to a news report about a minor criminal charge.

From both journalistic and freedom of expression perspectives, it's important that journalists are not bound by police decisions about whether to name a charged person, as police and journalists have different objectives. For example, police may decide to name a shoplifter, while the news media may decide against it if the case involves a single mother struggling through court battles with an abusive ex. On the other hand, police may not name a person charged with minor thefts from gym lockers, but journalists may deem the name newsworthy if the accused be a recent lottery winner, a school trustee or a well-known social media influencer.

Internet searchability means editors face requests from people named as accused in years-old stories about minor criminal charges who ask that their name and/or the story be removed from the public record. In such cases editors have the following options available to them, depending on the facts of the specific case:

- Do nothing—the original story stands as is.
- Remove the complainant's name (maybe their whole name, maybe their surname) and/or identifying details from the story. In these circumstances, the change should be accompanied by an editor's note that explains the change and the reason for it.
- Add an update to the story in the form of an editor's note. This practice is especially useful in cases in which a criminal case was withdrawn, stayed or resulted in an acquittal.
- Write an entirely fresh story that reports an update such as a criminal case being withdrawn or stayed or the accused person being acquitted.
- De-index a story—this is a process that prevents a story from being picked up by a Google search. (Anyone who has the story's html link will still be able to access it.)
- Unpublish the story—remove all traces from the news organization's digital archives.

Worth noting is that the frequency and similar nature of such requests have led to questions about the practice of routinely naming those charged with minor offences. Telling the story effectively without naming the accused may well fulfill the duty to inform the public *and* avoid the task of dealing with future requests to revise the record.

Conclusion

We must stress again that journalism should not involve decisions or practices whereby reporting is based on a *police* decision to withhold the name of an accused. Journalists should still seek the name of an accused person even if they know they're unlikely to publish it. Decisions about the elements of a story are a core aspect of editorial discretion, and while police may be sources of information, they do not make news decisions about a story.

Fair, equitable and trustworthy reporting may involve both an upstream and downstream solution. Journalists and newsrooms need to think carefully about whether and when to name

the names of those charged with minor offences. At the same time, newsrooms should develop robust remedies (and, perhaps, a less hardline approach) in case of complaints from those named as criminal accused in minor crime situations. Unpublishing is an extreme and rare option, but useful strategies may include removing names from old stories, substituting initials, deindexing, or adding an editor's note to update online stories.

Public trust may benefit from making sure these practices are well-explained, that the process for remedy is accessible, and that the news organization is consistent in stating and employing its journalistic practices such as fairness, context, accuracy and accountability.

In light of the legacy of systemic bias, newsrooms should be prepared to engage in conversation and consideration of remedy when asked to consider the impact of being reported as charged with, but found not guilty of, a minor offence.

Further reading and examples

Some useful ways to think about evaluating and measuring the impact of crime coverage from Trusting News (shared at ONA 2021):

<https://docs.google.com/document/d/1tg8z-rA6tcHPw4iD9NQ9l6n4spKFfjBm0OANPdeQ0nY/edit>

CBC Ombudsman review: Naming the past legal issues of someone in the news unrelated to the core story. <https://cbc.radio-canada.ca/en/ombudsman/reviews/2017-05-10>

CBC Ombudsman review: Reporting on people arrested but not charged:
<https://cbc.radio-canada.ca/en/ombudsman/reviews/Arrest-But-No-Charges>

"Covering Canadian Crime - What Journalists Should Know and the Public Should Question", Chris Richardson, Romyne Smith Fullerton. University of Toronto Press, 2016

"Crisis in Canada's Policing: Why Change Is So Hard and How We Can Get Real Reform in Our Police Forces" by John Sewell with Christopher Williams. Lorimer, 2021

Appendix: Best Practices

Best practices to consider before naming an accused

Before naming a person charged with a *minor* offence, consider:

- Will the story be covered beyond reporting the charge?
- Are all incidents of this type reported?
- Is the news value in the incident itself, or in the identity of the person charged?
- Does the story stem from a police publicity event (e.g. announcing crime statistics, RIDE program) as opposed to a legitimate public-interest matter?
- Is this story building on a matter of legitimate public interest (as opposed to one rooted in stereotypical assumptions) already alive in the news and community?
- Will the story be linked to other outlets or distributed beyond your newsroom's control?
- Will you link to or promote this story on company social media?
- If this is a "weird news" story, is it being told with respect for all involved?
- Does the story use a photo that will identify the person charged?

Be ready to respond to takedown or unpublishing requests from named subjects in stories

- Have a guideline for decisions about naming an accused
- Develop a process for deciding on remedies
- Make that process available to the public and transparent for readers and the newsroom

When there is a complaint from a person who has been named in a story

Listen to the complainant and engage in discussion about potential impact and possible remedy, while keeping in mind that a remedy may or may not be appropriate, depending on the circumstances. Remedies could include:

- Updating the original article by including the disposition of charges
- Writing a follow up story
- Removing the name from the original article
- Using initials to replace the name in the original article
- Adding an editor's note in the cases above
- Deindexing the article (see below)
- Unpublishing

Deindexing instructions

Google's developer resources explain how to de-index a published news article; you can find that information [here](#).