

**TO POST OR NOT TO POST:  
THE ETHICS OF NEWSPAPERS'  
ONLINE MUG SHOT GALLERIES**

**Introduction**

New York newspaper websites are tapping into a curious cultural fascination: mug shots. You do not have to commit a serious offense, you do not have to be convicted, and you do not even have to be a public figure. Just get arrested—no charge is too small—and the head shot taken at the police station when you get booked could be indefinitely immortalized on your local newspaper's website.<sup>1</sup> These online photo galleries are growing in popularity across the United States as newspapers seek more Web traffic and the advertising revenue that accompanies it. In New York, small and major publications alike have joined the trend, including *Newsday*, the *Poughkeepsie Journal* and the *Rochester Democrat and Chronicle*. Neighboring New Jersey newspapers may soon join in on this growing national trend, as well. While the sites are based entirely on information already available from local police departments, they do not tell the whole story, including who was ultimately convicted or who had had charges dropped.

Journalists argue that the sites are just a continuation of their long-standing practice of reporting on local crime and those involved in it, a custom that dates back to the first colonial newspapers. Some publishers have even started lucrative newspapers and released books that feature nothing but mug shots.<sup>2</sup> And some communities without mug shot sites are now demanding them. Publishing such content online, however, raises new ethical issues that are

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<sup>1</sup> Elliott C. McLaughlin, "Media Taking Mug Shots—Foreign, Familiar—To Bank," *CNN*, Dec. 8, 2008. <http://www.cnn.com/2008/CRIME/12/08/mugshots.fascination/index.html> (October 12, 2011).

<sup>2</sup> McLaughlin, "Media Taking Mug Shots—Foreign, Familiar—To Bank."

unique to digital media, particularly for respectable newspapers, which are expected to “adhere to the highest standards of professional journalism.”<sup>3</sup>

There was a time when embarrassing information eventually died away. Or, if it did not, people could move and reinvent themselves. In the past, if someone got arrested for a minor offense, chances are you would not read about it in the newspaper or see their face on the evening news. At worst, there might be a brief mention of what happened in the police blotter—a record that would disappear after a week or so when the recycle truck came to collect old newspapers. But the Web has changed that. Now, individuals risk being branded negatively forever. As the *New York Times* observed in a story about disgraced former Congressman Anthony Weiner and negative online data, “The Web is like an elephant—it never forgets, and if let loose it can cause a lot of trouble.”<sup>4</sup> More and more prospective employers are using Internet searches to find information about people,<sup>5</sup> and mug shot galleries often show up first on searches.

What is to be done about this? At the moment, anything goes when it comes to online mug shot galleries. There are no codes of conduct or best practices for sites to emulate. Among newspapers, standards differ widely. Steve Myers, managing editor of Poynter, a renowned media studies institute, recently outlined some of these pressing issues that newspapers operating mug shot sites must grapple with: “Is this journalism? Voyeurism? Entertainment? . . . Is it fair to

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<sup>3</sup> See, e.g., “Statement of Journalistic Ethics for The Daily Press, Inc. News Department,” Newport News, *Virginia Daily Press*, 2011, <http://www.dailypress.com/services/dp-ethics,0,2832688.htmlstory> (October 12, 2011).

<sup>4</sup> Paul Sullivan, “Negative Online Data Can Be Challenged, at a Price,” *New York Times*, June 10, 2011, <https://www.nytimes.com/2011/06/11/your-money/11wealth.html> (October 12, 2011).

<sup>5</sup> Jennifer Preston, “Social Media History Becomes a Job Hurdle,” *New York Times*, July 20, 2011, <https://www.nytimes.com/2011/07/21/technology/social-media-history-becomes-a-new-job-hurdle.html> (October 12, 2011).

highlight people who have been arrested but not been convicted of a crime? What if the charges are dropped or they're acquitted? What are the legal implications of highlighting these people? ... In an age when things seem to live forever online, what impact could this have on people's digital identities?"<sup>6</sup>

### **Growth of Mug Shot Websites**

Although mug shot galleries are a hot new trend in digital media, they are not completely novel nor are they Internet-only. Since 1950, the Federal Bureau of Investigation has maintained its "Ten Most Wanted List," a poster of mug shots prominently displayed nationwide in public places such as post offices.<sup>7</sup> In 1988, Fox aired "America's Most Wanted," a weekly television broadcast featuring photos of fugitives and reenactments of their alleged crime.<sup>8</sup> It ran for 23 years, becoming the network's longest-running show.<sup>9</sup> And for decades, the *Baltimore Sun* has been publishing a page in its print edition of police arrest reports that gives names, addresses, and charges for people arrested the previous day.<sup>10</sup>

In the late 1990s, the mug shot phenomenon hit the Internet, when The Smoking Gun began curating a gallery of mug shots, featuring celebrities, infamous fugitives, and the "world's

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<sup>6</sup> Steve Myers, "Archived Chat: The Ethics of Posting Mug Shots Online," *Poynter*, April 8, 2009. <http://www.poynter.org/latest-news/top-stories/95107/archived-chat-the-ethics-of-posting-mug-shots-online/> (October 12, 2011).

<sup>7</sup> "Mar 14, 1950: The FBI Debuts 10 Most Wanted" (History Channel, "This Day in History"), <http://www.history.com/this-day-in-history/the-fbi-debuts-10-most-wanted> (October 12, 2011).

<sup>8</sup> Frank J. Prial, "Freeze! You're On TV," *New York Times*, September 25, 1988, <http://www.nytimes.com/1988/09/25/magazine/freeze-you-re-on-tv.html> (October 12, 2011).

<sup>9</sup> "America's Most Wanted" (TV.com), <https://www.tv.com/shows/americas-most-wanted> (October 12, 2011).

<sup>10</sup> Myers, "Archived Chat: The Ethics of Posting Mug Shots Online."

dumbest criminals.”<sup>11</sup> The popularity of the content spurred entrepreneurs to create entire websites devoted to mug shots. Newspaper executives saw the money that could be made from such sites and joined in the fray. In the past few years, several major daily newspapers such as *Newsday*, the *St. Petersburg Times* and *Chicago Tribune* have launched websites based on mug shots of recently arrested local residents. Even small newspapers, such as the 30,000-circulation Panama City, Florida *News Herald*, now have online mug shot galleries. These sites have been wildly successful. The *Palm Beach Post*, for example, estimates its mug shots draw half of the newspaper website’s 45 million monthly page views.<sup>12</sup> Some communities now are even demanding the creation of such sites. New Jersey lawmakers are currently considering legislation that would require all police departments to release photographs along with arrested suspects names and addresses.<sup>13</sup>

There is no archetype for mug shot sites. The *Poughkeepsie Journal*, for example, shows arrests in the region during the past week. Beyond the photos, there is scant information about the suspects’ names and charge(s), and arrest date. Those featured on a recent day faced charges ranging from public drunkenness and driving with an expired license to grand larceny and attempted murder. No explanations of the charges or details about the circumstances surrounding

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<sup>11</sup> Kevin Rector, “High-Caliber Ammunition: The Smoking Gun Makes Its Mark Online With Its Relentless Pursuit Of Documents,” *American Journalism Review*, June/July 2008, <http://ajr.org/Article.asp?id=4545> (October 12, 2011).

<sup>12</sup> Tim Padgett, “Newspapers Catch Mug-Shot Mania,” *Time*, September 21, 2009, <http://www.time.com/time/magazine/article/0,9171,1921604,00.html> (October 12, 2011).

<sup>13</sup> Christopher Robbins, “Assemblyman Introduces Bill to Require Mug Shots with Arrest Reports,” *The Star-Ledger*, May 2, 2013, [http://www.nj.com/monmouth/index.ssf/2013/05/assemblyman\\_introduces\\_bill\\_to\\_require\\_mug\\_shots\\_with\\_arrest\\_reports.html](http://www.nj.com/monmouth/index.ssf/2013/05/assemblyman_introduces_bill_to_require_mug_shots_with_arrest_reports.html)

the arrests are provided. *Newsday*, by comparison, provides a few paragraphs of details regarding the incident.

The *Chicago Tribune* is considered by many journalists to have the highest standards when it comes to mug shot websites.<sup>14</sup> The newspaper only runs mug shots if there is a staff-reported story to accompany it. “We have a mug shot and a caption and we link a story to that caption,” explained Bill Adee, the newspaper’s digital editor. “That really sets the bar. We use mug shots where there are stories to set the context.”<sup>15</sup> But content is not limited to high-profile miscreants such as Rod Blagojevich or murder suspects. The *Tribune*’s mug shot website relies heavily on TribLocal, the newspaper’s chain of suburban websites, which describes itself as a “unique mix of professional and user-generated content.” Out in the ’burbs, murder is not necessary to get some ink. On a typical day, visitors to the mug shot site may see alleged child beaters, panderers and burglars. “We try to get different kinds of crimes and we try to get a variety of city and suburban,” Adee said.<sup>16</sup> As *Chicago Reader*, an alternative weekly newspaper, observed about the *Tribune*’s mug shot site: “‘Mugs in the News’ samples the local criminal element, choosing mugs with the same careful regard for the overall effect as a florist assembling a bouquet.”<sup>17</sup>

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<sup>14</sup> Sydney Smith, “Is Chicago Trib’s Mug Shot Publishing More Ethical than St. Petersburg Times?,” *StinkyJournalism.org*, December 17, 2010, <http://www.stinkyjournalism.org/editordetail.php?id=1061> (October 12, 2011).

<sup>15</sup> Smith, “Is Chicago Trib’s Mug Shot Publishing More Ethical than St. Petersburg Times?”

<sup>16</sup> *Ibid.*

<sup>17</sup> Michael Miner, “Doing Face Time: The Ethics of a Burgeoning Trend in Journalism,” *Chicago Reader*, December 16, 2010, <http://www.chicagoreader.com/chicago/mugs-in-the-news-journalism-ethics/Content?oid=2888360> (October 12, 2011).

Some newspapers have much more controversial practices. The *St. Petersburg Times*, for example, occasionally includes mug shots of juveniles on its website. “The youngest I’ve seen was 16,” recalled staffer Matt Waite, who designed the site. “He was accused of shooting someone and had been charged as an adult. As such, we do not filter them out. That was the subject of intense discussion.”<sup>18</sup> Many sites, such as the Newport News, *Virginia Daily Press*, allow visitors to make comments on each mug shot—a feature one public defender calls “online Salem pillories.”<sup>19</sup>

The information on the sites is not always reliable. Sometimes, police make mistakes or provide misinformation. “Several of the [police departments] warned us that the data they input can be flawed,” Waite said.<sup>20</sup> In other cases, people featured on online galleries have been innocent or later acquitted of charges.<sup>21</sup> Most websites do not follow up to see how the case played out in court.<sup>22</sup> Many innocent people may not be aware they are on these sites, unless someone tells them or they actively look for themselves.

Some sites will freely take down photos upon request if the person was wrongly arrested, the charges are dropped, or the case leads to an acquittal. But several websites charge a fee to remove content, regardless of whether the person was acquitted or convicted of the charges. In

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<sup>18</sup> Myers, “Archived Chat: The Ethics of Posting Mug Shots Online.”

<sup>19</sup> Padgett, “Newspapers Catch Mug-Shot Mania.”

<sup>20</sup> Myers, “Archived Chat: The Ethics of Posting Mug Shots Online.”

<sup>21</sup> Doug Smith, “Should Mug Shots Really Be Posted Online?,” My FOX Tampa Bay, September 23, 2011, <http://www.myfoxtampabay.com/dpp/news/local/pinellas/online-mug-shots-092311> (October 12, 2011).

<sup>22</sup> Myers, “Archived Chat: The Ethics of Posting Mug Shots Online.”

some cases, fees can be as high as \$400.<sup>23</sup> Some websites—including those operated by newspapers such as the Ogden, Utah *Standard-Examiner*—by policy do not remove mug shots from their sites if the defendant has been found not guilty or their record has been expunged. “We post only true and factual information as originally published by local law enforcement agencies,” an official at MugShots.com said in defense of the policy. “We make no judgment, we take no sides.”<sup>24</sup>

Policies also differ widely for the period of time the photos are displayed online—a major source of controversy. Some websites store the content indefinitely, which means innocent people may have their mug shots Google-able for the rest of their lives. Other sites, such as the *St. Petersburg Times*<sup>25</sup> and *Chicago Tribune*, remove the content after two months. “So they’re not in that gallery forever,” Adee said. “And if charges are dropped, we drop the mug shot.”<sup>26</sup>

Some newspapers also take measures to prevent their website content from being indexed by search engine bots, reducing the chances that a link to the mug shot will appear when someone does a search for the arrested person. Waite explains: “I can remember a conversation that we had very early on where I said that I did not want the first record in Google to be our site for anyone. So we’ve taken steps to stop Google from indexing the individual pages ... we’ve worked very hard to make sure that this information is not Google-able.”<sup>27</sup> But many sites do not

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<sup>23</sup> Kravets, “Mug-Shot Industry Will Dig Up Your Past, Charge You to Bury It Again.”

<sup>24</sup> Vince Horiuchi, “Your Mugshot is Online; It Could Be Gone—for a Price,” *Salt Lake Tribune*, September 6, 2011, <http://www.sltrib.com/sltrib/home2/52450098-183/com-mugshot-mugshots-florida.html.csp> (October 12, 2011).

<sup>25</sup> Myers, “Archived Chat: The Ethics of Posting Mug Shots Online.”

<sup>26</sup> Miner, “Doing Face Time: The Ethics of a Burgeoning Trend in Journalism.”

<sup>27</sup> Myers, “Archived Chat: The Ethics of Posting Mug Shots Online.”

take such measures, and some even utilize search engine optimization practices to ensure their content appears first if someone does an Internet search for the name of a person in their mug shot gallery.<sup>28</sup>

Despite all of these questionable practices, it is “legally safe” to publish the mug shots, according to John Watson, associate professor of journalism at American University, meaning website operators cannot be sued for publishing what is essentially a government document.<sup>29</sup> Additionally, most mug shot websites use legal disclaimers to cover themselves. A boilerplate warning is prominently featured on many websites stating: “Arrest and booking photos are provided by law enforcement officials. Arrest does not imply guilt, and criminal charges are merely accusations. A defendant is presumed innocent unless proven guilty and convicted.”<sup>30</sup>

Website operators are not the sole antagonists in this controversy. These online galleries would likely not be possible if not for police cooperation. When The Smoking Gun began its mug shot section, it gathered its information only after filing tedious, time-consuming Freedom of Information Act requests.<sup>31</sup> Now, many police departments not only share arrest records with mug shot websites, but in some cases even seem to encourage them to use the information.<sup>32</sup> Computers in *St. Petersburg Times*' newsroom, for example, automatically download arrest

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<sup>28</sup> Kravets, “Mug-Shot Industry Will Dig Up Your Past, Charge You to Bury It Again.”

<sup>29</sup> McLaughlin, “Media Taking Mug Shots—Foreign, Familiar—To Bank.”

<sup>30</sup> See, e.g., mug shot websites for *Chicago Tribune* (<http://trib.in/3dilK>), *Orlando Sentinel* (<http://thesent.nl/oI4CmR>), and Newport News (Virginia) *Daily Press* (<http://www.dailypress.com/news/crime/dp-localroguesgallery,0,4655680.photogallery>).

<sup>31</sup> Rector, “High-Caliber Ammunition: The Smoking Gun Makes Its Mark Online With Its Relentless Pursuit Of Documents.”

<sup>32</sup> Molika Ashford, “Mugshot Publishing Continues to Expand,” StinkyJournalism.org, February 26, 2010, <http://www.stinkyjournalism.org/editordetail.php?id=653> (October 12, 2011).

records and mug shots each day from the servers of Tampa Bay area police departments.<sup>33</sup> A number of police departments also operate their own mug shot galleries on their websites.<sup>34</sup> Consequently, some critics say media are just a symptom of the problem, and that law enforcement are to blame for the problems caused by online galleries. Not all police departments release mug shots. The New York Police Department, for example, releases photos and arrest records only if they are actively searching for a person.<sup>35</sup>

### **Applying SPJ's Ethics Code to Mug Shot Websites**

Are these sites unethical? Do they provide any benefit to society? Provide an analysis using SPJ's Code of Ethics. How would you feel if Adelphi University has a website that showed photos of students who got in trouble with campus security? Is there any way the problems with these sites could be remedied? In other words, could we make these mug shot galleries less offensive/controversial by implementing some changes?

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<sup>33</sup> Myers, "Archived Chat: The Ethics of Posting Mug Shots Online."

<sup>34</sup> See, e.g. El Paso (Texas) Police Department website at [http://www.elpasotexas.gov/pdimug/mugphoto\\_homepage.asp](http://www.elpasotexas.gov/pdimug/mugphoto_homepage.asp).

<sup>35</sup> Ashford, "Mugshot Publishing Continues to Expand."