

THE KANSAS PUBLISHER



OFFICIAL MONTHLY PUBLICATION OF THE KANSAS PRESS ASSOCIATION JAN. 15, 2014

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KPA CALENDAR

FEB. 5

Internship and Employment Fair, sponsored by Elliott School of Communication, WSU. See story on page 7.

APRIL 11-12

KPA annual convention, Manhattan Hilton Garden Inn. President’s Reception and banquet at Flint Hills Discovery Center.



Robert Harte, left, testifies today in favor of opening probable cause affidavits to public inspection. Olaf Frandsen, Salina Journal publisher, and Mike

Kautsch, KPA’s media law consultant and a professor of law at the University of Kansas, testified on behalf of KPA. (Photo courtesy of Andy Marso, TCJ)

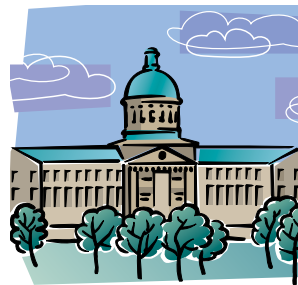
PCA issue, KORA costs top KPA agenda

An age-old issue for Kansas newspapers is back at the top of the Kansas Press Association’s legislative agenda for 2014.

KPA, the Kansas Association of Broadcasters, the Kansas Sunshine Coalition for Open Government and others will try to reverse a 35-year-old statute that presumes probable cause affidavits used to arrest a suspect or to conduct a search as closed records.

In most states, including all the states surrounding Kansas, such records are presumed open after an arrest is made or a search completed.

Not in Kansas.



“This will be the fourth time in the past nine sessions that we’ve pushed for this change,” said Doug Anstaett, KPA’s executive director. “It is a travesty that we stand virtually alone in the United States in closing these court records.”

An informational hearing was held Wednesday in the House Corrections and Juvenile Justice Committee chaired by Rep. John Rubin, R-Shawnee. Rubin, a retired federal judge, has agreed to look into the issue since such documents are open records in all federal courts.

See LEGISLATIVE on Page 3

Entry deadline nears for 2013 AOE contest

The deadline is fast approaching to submit your entries for the Kansas Press Association’s Awards of Excellence Contest for calendar year 2013.

The necessary information is available on the KPA website, and the forms are also attached to today’s Kansas Publisher.

Emily Bradbury, director of member services at KPA, points out the deadline for entries is just two days away.

“We know this contest is important for many of our newspapers because it allows staff members to display their best work over the past year,” she said.

A new category has been added this year to emphasize the importance of public notices in newspapers. This category, “Best Story That Originated With a Public Notice,” requires a story that was spurred by a published public notice.

See AOE on Page 5

Slimp offers a few tips on how to improve color reproduction

Color. It seems to be on the minds of newspaper publishers and production managers everywhere.

Without a doubt, the second most requested task I've been given by newspapers in recent months is to improve the quality of the color in their print products.

As I jumped on a plane recently to head to Minnesota, I realize that a good number of folks at the event, sponsored by a major newspaper printer in that part of the country, are hoping to improve the way photos print in their publications. That was also the case in Tennessee, where I visited with the staff of the Shelbyville Times-Gazette last week. There, Hugh Jones, publisher, and Sadie Fowler, editor, tasked me with improving the quality of photos in their daily newspaper.

I sometimes feel ill equipped for the job. I mean, I don't show up with measuring devices, densitometers or other tools. Heck, I don't even bring a computer for the assignment.

As we were looking over the final print tests in Shelbyville, Hugh Jones said something quite memorable to me, "We've had technical support specialists from several press, paper and ink companies over the years. They come in with all kinds of measuring devices and tools, but when they leave, we rarely see any real improvement in our photos. You came in for one day and taught us that all that really matters is what we see on the page and the improvement in our photos is pretty remarkable."

Don't get me wrong. There is nothing wrong with measuring devices. Standards are important. But when it comes to photos, the proof is in the pudding. What our readers see on the page is what matters. Most of them don't know the difference between dot gain and Rogaine.

So what do all these pre-press and printing terms really mean? Here's a primer for my friends who want to know more about color:

• **Color Settings:** Since the early days of PhotoShop, there have been ways to build color settings into photos. This is true of other photo editing applications, as well.

Color settings, when used correctly, are built into each photo. They include informa-

tion like the dot gain, the black ink level, the color ink level and more. If you want to see how your color settings are set, go to Edit>Color Settings in Photoshop.

When you first open the Color Settings window, you'll see options for RGB, CMYK, Gray and more. Even though we don't print in RGB, getting this setting right makes a big difference when converting your colors from RGB to CMYK, so don't take it lightly.

• **CMYK Settings:** The most important color setting is the CMYK setting. Here, you let the application know what dot gain, separation type and ink limits should be built into each photo.

Remember looking at pictures in books and magazines when you were a kid? Remember those white dots that you would see in

the photos? That's your dot gain. They are there for a reason. These dots give your ink someplace to go when it lands on the page. Setting dot gains for newsprint used to be easier. Most web presses tended to be about the same. Not any more. I've seen dot gains from 20 to 40 percent on presses the past six months. And the only way to know for sure what the perfect dot gain is on a press is to run test after test. That's what we were doing in Shelbyville last week.

There are two separation types in CMYK printing: Gray Component Replacement (GCR) and Undercolor Removal (UCR). I

used to find that UCR, which primarily mixes Cyan, Magenta, Yellow and light amounts of black to create gray areas of a photo, worked best on newspaper presses. That's not always the case anymore. It seems like about a third of the presses I test print better on newsprint using GCR,

which uses less Cyan, Magenta and Yellow and more black ink when printing gray areas.

Black Ink Limit refers to the amount of black used to print something solid black in a photo. Because newsprint is thin, this number is generally less than 100 percent, because grays usually print darker than they appear on the screen.

Total Ink Limit refers to the total ink used



Kevin Slimp

The proof is in the pudding. What our readers see on the page is what matters. Most of them don't know the difference between dot gain and Rogaine.

See SLIMP on Page 3

2013-14 KPA BOARD

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Position Open

You're replacing someone: now what do you do?

I was talking to Angela about her early days at her newspaper. "When I moved into this sales job, a lot of clients asked about the person I replaced. Most of them asked innocent questions about how that person was doing. But some of them were nosy and persistent. I figured the best strategy was to stay upbeat."

It's a big challenge to step into a new position, whether it's a result of account reassignments or a matter of replacing someone who has left the newspaper. By being upbeat, Angela was on the right track. People transition in and out of jobs and sales territories all the time – and the new person has some control of how those changes are perceived. Here are three points to keep in mind:



John Foust

1. Be positive. Never say anything negative about the person you're replacing. "Early on, I decided to avoid saying things that I wouldn't say if my predecessor were in the room," Angela said. "There's nothing to be gained by criticism, even if that person left under negative circumstances."

"It's smart to prepare some positive comments – things that are true, things you can say with sincerity. For example, you

can say something like, 'I appreciate your concern. Joe developed some ad strategies which got great results for his accounts.'" Or 'Joe told me how much he enjoyed working with you. I'm sure his old accounts will miss him.'"

2. Don't gossip.

It's human nature for clients to want to hear the details – good or bad – of how and why their former representative is no longer handling their advertising. And it's natural to want to please their curiosity. That's why even the most innocent question calls for self-discipline.

"Just because people are curious doesn't mean I have to answer inappropriate questions," Angela explained. "I found it helpful to say, 'I appreciate your interest in Joe, but I wasn't here at the time, so I really can't answer your question.' I kept my comments as neutral as possible."

Eleanor Roosevelt famously said, "Great minds discuss ideas. Average minds discuss events. Small minds discuss people."

Which leads us to the next point.

3. Help your clients look forward, not backward. Advertisers – like consumers – are motivated by self-interest. Change represents a possible threat to what was a

The first order of business is to reassure your accounts that you have their best interests at heart – and that their marketing is in good hands with your newspaper.

predictable relationship with your paper.

Here's a new beginning. A clean slate. An invitation to discuss ideas.

The first order of business is to reassure your accounts that you have their best interests at heart – and that their marketing

is in good hands with your newspaper. "In the beginning it's all about establishing rapport," Angela said. "When I had initial conversations with existing accounts, I just tried to get to know them and let them see that I cared about their businesses. And like always, I was on the lookout for potential ideas and promotions."

"Funny thing about ideas," she continued. "When you get good ones – ideas that generate business for your advertiser – they'll stop talking about the good old days."

John Foust has conducted training programs for thousands of newspaper advertising professionals. Many are using his training videos to save time and get quick results from in-house training. E-mail for information at jfoust@mindspring.com.

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Slimp

Continued from Page 2

on the Cyan, Magenta and Yellow plates. Quite often, someone will tell me that their printer told them to keep their total ink limit under a particular number. This is what they are referring to.

I could go on for hours, and I have, explaining the concept of color in photos. However, it seems I've reached my 800 word limit for this column.

Let me suggest that, if you haven't already, you talk to whomever runs your press, whether you print in-house or send PDF files off-site, to figure out what the best color settings are for your pages.

It can be the difference between dull, lifeless pictures and photos that make your readers say, "Wow!"

Kevin Slimp is a speaker and trainer in the newspaper industry. He can be reached at kevin@kevinslimp.com.

Legislative

Continued from Page 1

Probable cause affidavits are used to justify an arrest warrant or a search warrant. They contain information that led police or prosecutors to believe that a crime had been committed and that the person named in the affidavit was culpable in the commission of that crime. The affidavit must be sufficient enough to be approved by a judge.

At Wednesday's hearing, Robert and Adlynn Harte testified that their Leawood home was searched based on "flimsy" evidence and that it took them more than a year to get a copy of the PCA, even though no charges were ever warranted or filed.

Testifying before the committee for KPA were Mike Kautsch, professor of law at the University of Kansas and a media law consultant to KPA, and Olaf Frandsen, editor and publisher of the Salina Journal and chair of KPA's Legislative Committee. Written testimony was submitted by a number of others.

In the past, such a statutory change has

been vigorously challenged by organizations representing law enforcement agencies and prosecutors.

Copies of testimony on the PCA issue by Kautsch, Frandsen and Doug Anstaett, KPA executive director, are attached to today's Kansas Publisher.

KPA will also pursue the adoption of a bill filed during the 2013 session that would limit what could be charged for access to public records.

Senate Bill 10, introduced last year by Sen. Jacob LaTurner of Pittsburg, would bring specificity to what has been an irritant for the press and public alike: wide-ranging, often exorbitant charges for copies and for records searches by public officials.

LaTurner's bill would itemize what could be charged for records, limiting those charges to what KPA believes are more "reasonable" levels.

"We have found that costs have become so egregiously high that requesters have simply backed away because they couldn't afford the bill," Anstaett said. "What the effect of this has been is to essentially close those records. That is a travesty that cannot continue."

Partnerships with our ‘competitors’ make sense

Competition fuels our industry, to include newspapers often facing off against one another in a quest to land advertiser and reader dollars.

But more newspapers — including a good number in Kansas — have reached out to their “competitors” in hopes of working together in ways that benefit both sides.

More newspapers have turned to other operations to print their products. Others have found their way to shared newspaper delivery systems where they previously covered the same geography.

Some papers are even partnering in — gasp — advertising sales, by selling into one another’s products.

And why not?

We’re all facing more competition from outfits outside our industry looking to grab a slice of the local advertising pie. Advertisers will tell you they’re hearing from more sellers than ever before, with options for digital in particular becoming more prevalent in all of our markets.

By working on ad sales with other newspapers — even those considered “rivals” — we can offer advertisers more reach and bang for their buck.

In return, newspapers involved can boost advertising lineage. More ads, after all, not only bring in more dollars, but also create a busier newspaper “marketplace” — one that looks more relevant to prospective advertisers.

Another advertising sales partnership already is available through the Kansas Press Association.

Unfortunately, some advertising staffers in Kansas remain a bit leery of KPA sales efforts, wondering if it always makes sense to devote a cut of the revenue to the organization when it makes an advertising buy for papers.

Some over the years have even likened KPA sales to the kind of

money grabs we often see from advertising agencies, which would be off-base.

KPA may be a “middleman” in ad sales, but not as part of a quest to feather its own nest. Rather, those sales help fund the many benefits of a KPA membership, such as free legal and tech hotlines, no-cost training webinars in many areas of newspaper operations, representation on legislative issues and much more.

The KPA ad staff also continues to seek ways to enhance its role as partner for

member newspapers. Along with working on advertising buys we all need, the KPA staff is pursuing new strategies to help papers improve their own print and digital sales efforts.

Meanwhile, we all should consider examples from a growing trend in newspaper-to-newspaper alliances. When papers reach out to one another in hopes of craft-

ing a partnership, they stand to gain mutual benefit in some combination of savings, increased profitability and improved products and services.

Plus, such deals have a way of improving communication between newspaper operations. We all could learn something from one another.

At The Telegram, we have a number of partnerships in place, from the most long-standing of such deals in commercial printing, to a recently launched joint carrier force operation with our sister paper, The Hutchinson News.

We’re making progress in advertising sales partnerships (a realistic way to expand our network of sellers and potential buyers) and see potential in the sale

When papers reach out to one another in hopes of crafting a partnership, they stand to gain mutual benefit in some combination of savings, increased profitability and improved products and services.



Dena Sattler

See SATTLER on Page 5

NEWS BRIEFS

Schwien new ME at Hays Daily News

Nick Schwien has been named the new managing editor of The Hays Daily News. Schwien has been with the HDN for 16 years, and most recently served as the chief copy editor.

Publisher Patrick Lowry said, “Nick is talented with all the platforms that we work with,” Lowry said, “from paper to apps to mobile editions and all of our niche products. He has demonstrated a strong talent with each of them.”

Schwien, a graduate of Fort Hays State University, began as a sports stringer with the News while still in college. Following graduation, he was hired as a full-time sports reporter and later promoted to assistant sports editor.

In 2004, Schwien received a job as a copy editor and quickly was promoted to chief copy editor.

As chief copy editor, he oversaw the daily production of the newspaper, as well as assisted with story assignments.

Kunkle is new Daily Union news editor

Alix Kunkle has joined the staff of the Junction City Daily Union as news editor. Kunkle will handle many of the day-to-day operations of the Daily Union newsroom.

He spent almost three years at the Leesville Daily Leader and

Beauregard News in Louisiana before coming to Junction City.

He is a native of Latrobe, Pa., and a 2011 graduate of California University in Pennsylvania.

Former Peabody owner Bowlin dies

Gary Max Bowlin, 76, who bought the Peabody Gazette-Bulletin from Bill Krause in 1997, died Dec. 26.

Bowlin and his wife, Lou Ann, ran the newspaper until it was sold to Hoch Publishing Co. in 2001.

He was born Jan. 28, 1937 to Max “Mike” and Verna Penny Bowlin in Wichita.

He is survived by his wife Lou Ann; four daughters, Linda Allis and Deanna Schoeninger, both of Colorado, Shella Carroll of Ohio and Emily of the home; 14 grandchildren; six great-grandchildren; a sister and a brother.

Nominations due for Hall of Fame

The deadline for nominations to the Kansas Newspaper Hall of Fame is Jan. 20. Nominees must have served at least 25 years in Kansas as a professional journalist or journalism educator to be eligible.

Send your nomination to Doug Anstaett at danstaett@kansaspress.com. KPA past presidents form the selection committee.

Sattler

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of regional niche publications involving multiple newspapers.

Beyond those newspaper partnerships, we're also working with our local school district on online high school sports broadcasts, and our Chamber of Commerce in production of print and digital products.

We're always on the lookout for new opportunities to partner with others.

Of course, none of the above ventures

are simple. Every partnership presents challenges.

Communication, cooperation and hard work help us through the tough situations. The bottom line is, the potential gain for all involved cannot be ignored. Possibilities warrant conversations.

So, take a look at your market and region. What potential partnerships exist in your back yard?

Dena Sattler is editor/publisher of The Garden City Telegram and president of the Kansas Press Association for 2013-14.

Elliott School to host internship, job fair

Wichita State University's Elliott School of Communication will host its first Internship and Employment Fair from 1 p.m. to 3 p.m. Feb. 5 at the Wichita State University Metropolitan Complex at 29th and Oliver.

"If you're seeking an intern or employee now or in the coming months or if you just want to get an indication of our students' talents and skills, we hope you will join us on Feb. 5," said Matt Cecil, director and associate professor.

Participants will be able to meet students seeking internships and see what skills Elliott School students can offer — from writing to multimedia production and technology to strategy, research and presentation.

"You will have the chance to spend 10

to 15 minutes getting to know each student and discussing their qualifications. You will also help the students gain valuable interviewing and networking experience," Cecil said. "We expect approximately 150 students representing all of our emphasis areas (integrated marketing communication, journalism, electronic media, and strategic communication) to attend the event.

There is no cost to attend and snacks will be provided.

To reserve a spot for your company or if you have any questions, email Matthew. Cecil@wsu.edu.

"We will provide you with complete information about the event. If you plan to attend, please respond by Jan. 20 so we can ensure space for everyone," he said.

Nominations accepted for Gaston Mentor Award

Do you know someone who has been a long-time teacher and mentor at a Kansas newspaper or college? Then why not nominate him or her for the Gaston Outstanding Mentor Award.

If you know of someone who fits the bill, a letter of nomination should include your reasons why the individual is worthy of the award.

Past winners have included Elon Torrence of the Associated Press, Ralph Gage and Caroline Trowbridge of the Lawrence Journal-World, John Marshall of the Lindsborg News-Record, Howard Droegemeier of the Hays Daily News, Jeanny Sharp of the Ottawa Herald, Paul Branson of the Osawatomee Graphic and Tom Eblen, KPA consultant, among others.

Send your nomination with supporting letter (s) to Doug Anstaett at danstaett@kansaspress.com.

2013 CALL FOR ENTRIES
KANSAS PRESS ASSOCIATION Awards of Excellence
 Online Voting for 2014
 Eligibility
 Contest Period
 Deadline for Entries
 Prizes
 Nominations Awards

AOE

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Also, we have changed the issue month requirements for several categories.

Now, you can pick the best issue among three four-month periods. For example, for the Design and Layout Excellence category, you will be allowed to pick the best issue from each of these periods — January through April, May through August and September through December. We hope this change allows more flexibility to pick the best issue for the contest.

You can download files from the KPA website at: <https://kspress.com/70/contests>

The information is also attached to today's Kansas Publisher. The contest is again online.



THIS MONTH'S QUESTION

Q. Some of our smaller newspapers have always struggled with health insurance decisions. Does the new Affordable Care Act offer us any good alternatives?

A. You should take another look at small group insurance through the healthcare exchanges. For example, KPA faced a fairly stiff increase in rates this year through our existing contract with Blue Cross & Blue Shield. We looked into BCBS's ACA exchange offering and found we could save a considerable amount on our plan — and we were able to maintain a platinum plan. It's worth another look to see if you can devise an affordable plan for your staff.

INTRODUCING... RECA\$ MAN
CLICK HERE!
 LET RECAS HELP YOU IDENTIFY BUSINESSES IN YOUR MARKET WITH THE MOST CO-OP SALES POTENTIAL!

MARKETPLACE

NEWS

EDITOR — Weekly newspaper located in northeast Kansas is seeking an editor. We are looking for a community-minded, self-motivated person to produce a quality newspaper. Candidates must be proficient in all areas of reporting, editing, photography and pagination. Writing duties include county commission, city council, school board, feature stories and sports. Must be familiar with InDesign/Photoshop. Send cover letter, resume, work samples and references to Davis Publications, Inc., P.O. Box 187, Valley Falls, KS 66088 or email them to davispublicationsinc@yahoo.com

The Wichita Business Journal is looking for an experienced, passionate, multi-platform editor to run the newsroom. Have a vision for success in a digital world and for journalism with impact. Details here: <http://acbj.com/careers/>

ASSISTANT EDITOR — The Chanute Tribune in southeast Kansas is seeking an Assistant Editor. Duties would include covering city government beat, feature writing and pagination. Knowledge of AP Style and experience in photography, videography and InDesign experience a plus. College degree in journalism is preferred. The Tribune is a five-day a week AM newspaper located two hours from Kansas City, Tulsa, Joplin and Wichita. Please email resume to editor Stu Butcher: stu@chanute.com or mail to Chanute Tribune, P.O. Box 559, Chanute, KS 66720. (1-08)

CHIEF COPY EDITOR — The Hays Daily News, located in Hays, Kan., is seeking to fill the position of chief copy editor. The applicant must show a knowledge of InDesign, PhotoShop, Illustrator and social media. The position will require a tight schedule of paginating numerous pages for the daily paper, as well as some special sections. Must be willing to work on tight deadlines daily while juggling many other aspects of the job. Copy editing expertise and the willingness to help develop story ideas for reporters is a must. Seeking someone who can create attractive, effective front-page layouts, and carry that same design throughout the rest of the print edition. This candidate also will help move the HDN into a new age

of social media and delivering the product through many different avenues — not just the print edition. Must be willing to work as part of a strong team and add to the growing resume of products the HDN offers. Job is demanding, but rewarding. The Hays Daily News has been named the Kansas Press Association Sweepstakes Award winner three of the last four years in its division. Salary is based on experience, and position is open until filled. Send cover letter and resume to: The Hays Daily News, % Nick Schwien, managing editor, P.O. Box 857, Hays, KS 67601 or email cover letter and resume to: nschwien@dailynews.net

The Salina Journal seeks an enterprising LOCAL GOVERNMENT REPORTER who can take meeting coverage beyond the mundane and get to the heart of issues and how they affect readers. This reporter will search out the news that doesn't surface in meetings and press releases and explain issues -- including budgets -- to readers in an easy-to-understand manner. We want someone who can tweet the breaking news, then post updates to the Web before writing a comprehensive story for the next morning's paper. Hours are generally days, Monday through Friday, with some nights, weekends and holidays. We offer competitive wages, profit sharing, 401K and health and dental insurance. Pre-employment drug screen required. Send resume and samples of work by Dec. 31 to Deputy Editor Sharon Montague, Box 740, Salina, KS 67402-0740, or by e-mail at smontague@salina.com. (12-10)

WANTED: SPORTS EDITOR passionate about local sports to energetically lead a two-person department in covering high school and college programs that are perennial state and national contenders. This full-time position is responsible for coordinating daily multimedia sports coverage and reporting. Must be reliable and professional, possess good writing and communications skills, have reliable transportation, and most importantly, a desire for excellence. Weekend and evening hours required. If this is you, please send letter, clips, resume and references to Managing Editor Dale Hogg, 2012 Forest Ave., Great Bend, KS 67530.

ADVERTISING

PRINT/DIGITAL SALES MANAGER — Self starting individual who will cultivate clients, sell the value of print and digital advertising and increase sales for two newspapers and a very successful TMC publication. Minimum requirements: journalism degree or related field or professionally equivalent experience. Salary plus commission. Group health care plan available. Send resume to Brad Lowell, publisher, Concordia Blade-Empire and Beloit Call, Box 309, Concordia, KS 66901 or jbrad@nckcn.com. (12-19)

Award-winning media company seeks passionate customer-focused problem solvers who have the ability to cultivate client relationships. The ideal candidate not only should demonstrate skills needed for well-rounded print and MULTIMEDIA ADVERTISING SALES but also be well-suited for a team environment. Please email cover letter, resume and salary requirements or for more information, contact Laurie Blanco at lblanco@ottawaherald.com by Nov. 29. (11-18)

NEWSPAPERS FOR SALE

Respected 128-year-old weekly newspaper in Southwest Kansas; only newspaper in the county. Owner moving out of state. Steady subscription, advertising, annual sales approximately \$140,000. Will include building and property in sale. (785) 341-7573 after 5 p.m. MST. (11-2)

DIGITAL MEDIA

The Hays Daily News' Pixel Power Haus wants to give you control over the directory residents use to find information about the businesses that make up your coverage area. BizLink is a searchable database of businesses and organizations that provides considerable upsell opportunity for newspaper seeking new revenue streams. You've seen expensive "subscription-based" models ... try one that works with your budget. Call Patrick Lowry at (785) 628-1081 to hear how we can help.

MISCELLANEOUS

WANTED — Muller Martini 227 inserter hoppers, turning station, 310/20 stacker parts/equipment, or compatibles

MARKETPLACE

from inserting equipment or mailing machine. Call James at (620) 792-1211.

FOR SALE — Hewlett Packard Design Jet 750C Plus Plotter in excellent condition. Extra cartridges included. For more information call 785-628-1081 and ask for Jan or Mary.

FOR SALE — Hamada 800 DX w/ spray unit, electrostatic unit, 3M dampening sleeves; LOG Etronics Film Processor Model #LL2218, 196-264 volts, single phase, 15 amps; Brown Ultra-lite 1500 plate burner; 2 Nu-Arc light tables; 1950 Anniversary Edition Heidelberg Windmill press, very good condition. Nor'west Press, Goodland, Kansas. Call 785-899-2338.

KANSA 480 INSERTER — Reduce la-

bor costs with an efficient machine for handling preprinted inserts. The Garden City Telegram is selling its Kansa 480, 5:1 inserter, in good condition. This unit performs with a high degree of reliability and consistency over a wide range of operating conditions. Works with broadsheets for everything from single sheet fliers to multi-page editions and has been well maintained. Length 23'10", width 6'4" to 8'10" for creeper conveyor. We used an inline labeler and typically operated the unit at 6,000 to 6,500 pieces per hour though it is rated to do more than double that amount. Model #4601; Serial #480-036. Asking \$10,000, however no reasonable offer refused. For more information email Dena Sattler, denas@gctelegram.com, or call (620) 275-8500, extension 201.

Elliott School's Cecil writes book on Hoover, relationship with press

Matt Cecil, who recently took over as associate professor and director of the Elliott School of Communication at Wichita State University, has penned a new book on "Hoover's FBI and the Fourth Estate: The Campaign to Control the Press and the Bureau's Image."

Cecil researched thousands of pages of FBI files to reveal the lengths to which Hoover and the FBI went to use the press to influence the public's perception of the agency.

His book also reveals "how much help he got from so many in the press."

The 368-page book is published by University Press of Kansas and will come out in February 2014.



Matt Cecil

Cecil is a former journalism professor at South Dakota State University.

He has worked as a newspaper editor, a political and legislative reporter and a press secretary for a gubernatorial campaign.

One book review said Cecil's work "serves as a cautionary tale about how manipulative government agents and compliant journalists can undermine the very

institutions and ideals they are tasked with protecting."

DECEMBER KDAN, KCAN WINNERS

The following newspapers sold either direct placement, Kansas Display Ad Network, Kansas Classified Ad Network or out-of-state network ads in December 2013.

Remember, if you sell a KDAN or KCAN, which run in almost 150 Kansas newspapers, you keep half the money.

Sell one outside of Kansas (SDAN or SCAN) and you get to keep half the commission.

Make an ad placement into another newspaper in Kansas or elsewhere and share the KPA commission.

KCANs — GateHouse Media, 15 ads for a commission of \$2,250.

KDANs — Anderson County Review, two ads for a commission of \$1,650.

Out-of-state KDANs — Anderson County Review, four ads for a commission of \$720.

Direct placement — Hillsboro Free Press, one ad for a commission of \$55.38.

KPA OFFICE STAFF

Doug Anstaett

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This is why we fight to open probable cause affidavits

All eyes in the room were fixed upon Robert and Adlynn Harte as they told their story of a botched law enforcement raid on their home in Leawood to the House Corrections and Juvenile Justice Committee on Wednesday.

The hearing was described by the chairman of the committee, Rep. John Rubin, as “informational” in nature.

But one thing Adlynn said during her testimony resonated across the entire political spectrum and made it much more than that:

“This,” she said, “could happen to anyone.”

The “this” she was referring to was to be subjected to terror and embarrassment based on “flimsy” evidence contained in a probable cause affidavit used to secure the search warrant.

The Hartes were former federal employees who had top secret security clearances and had been subjected to countless background checks.

But after a Johnson County Sheriff’s Department SWAT team found nothing, the Hartes couldn’t gain access to the affidavits that had led to the search because Kansas law presumes those documents closed.

It’s an issue that has been on the KPA’s list of legislative priorities for years. We’ve had good reasons to pursue it before, but the Hartes have provided

powerful testimony that police power must have checks and balances that making the affidavits open records would provide.

We don’t want to impede law enforcement.

We know there are bad people out there.

But when law enforcement and prosecutors are allowed to keep such important documents secret, bad things can happen.

The Hartes know this all too well.

In their quest to open up the probable cause affidavit that led to the search warrant, they ran into a stone wall.

The answer to gaining access to the affidavit was not just “no,” but “hell, no.”

They spent tens of thousands of dollars to try to get answers, but what really made the difference was newspaper and broadcast coverage of their plight.

Only then, after fighting for more than a year, did they gain access to the affidavit that indicated just how puny the evidence was:

- Her husband had been seen leaving a business that sold hydroponic equipment, which they were later told was often used to grow marijuana by traffickers.

- They had discovered “stems and leaves” in the Hartes’ trash, also evidence of drugs.

Robert Harte had

bought the hydroponic equipment as a father-son project with his middle schooler. The “stems and leaves” were from Adlynn’s love of brewed tea. While a “field test” found the leaves to possibly be marijuana, a subsequent lab test ruled that out.

Since Wednesday’s hearing was “informational” in nature, we’ll have to wait to see if a bill to open affidavits emerges.

Remember, it could happen to anyone.

It did happen to the Hartes.

Big mistake.

Doug Anstaett is executive director of the Kansas Press Association.



Doug Anstaett

... When law enforcement and prosecutors are allowed to keep such important documents secret, bad things can happen.

The Hartes know this all too well.

BACK BY POPULAR DEMAND—THE KPA DIRECTORY!



**STAND OUT FROM THE CROWD—
SECURE YOUR 1/4 PAGE AD TODAY—ONLY \$350!**

(Full page, half page, and cover spots available. Contact KPA for placement.)



KANSAS PRESS ASSOCIATION Awards of Excellence

Online Uploading for 2014

All entries will be uploaded electronically (detailed instructions are attached). If you cannot upload PDFs, please contact Emily Bradbury at ebradbury@kspress.com

Eligibility

Active and associate members of Kansas Press Association may enter the Awards of Excellence contest. All entries must have been conceived, written, designed and sold by full-time or part-time employees of the newspaper.

Contest Period

Publication of all entries must have occurred between Jan. 1, 2013, and Dec. 31, 2013. Publication is defined by the issue date printed in the newspaper.

Deadline for Entries

Entries must be postmarked/uploaded by **Friday, Jan. 17, 2014 at Midnight**. Entries uploaded after the deadline will be disqualified.

Divisions

Divisions are based upon each newspaper's circulation figures as reported for the 2014 Kansas Newspaper Directory. In those cases where a newspaper's circulation is both paid and free, the total distribution determines the division. A newspaper may elect to compete in a higher circulation class, but may not choose to compete in a lower division. If an entry was published in more than one newspaper, the entry may only be submitted in the circulation division of the highest circulation newspaper.

Daily Newspapers

- Division I – Circulation 5,000 or less
- Division II – Circulation 5,001 to 15,000
- Division III – Circulation more than 15,001

Nondaily Newspapers

- Division I – Circulation 1,750 or less
- Division II – Circulation 1,751 to 4,000
- Division III – Circulation more than 4,001

Preparation of Entries

- All entries must be uploaded/submitted as full-page e-tearsheets that show the date of publication.

- All entries will be submitted electronically via www.betterbnc.com.

- Some categories limit the number of entries allowed per newspaper or per person. These restrictions are indicated in each individual category description.

- Please mail check payments to: KPA, 5423 SW 7th, Topeka, KS 66606, Attn: AOE. To pay by credit card, for your protection, please call the office to provide credit information.

Entry Fees

Entry fees are \$25 per newspaper plus \$5 per entry. Payment must accompany your entries. NOTE: The entry fee calculator will omit the \$25 entry fee in the final total. Please be sure to add the entry fee to your final total.

Determination of Winners

The entries will be judged by members of another state press association. Judges will select a first, second and third place winner for each category. Plaques will be awarded to the first place and Sweepstakes winners. Other winners will receive certificates. The judges will be asked to comment on each of the winning entries. The judges' decisions are final.

Sweepstakes Awards

Points will be given to a newspaper for each first, second and third place award received. The newspapers with the highest cumulative points in their division will be awarded the Sweepstakes plaque. There will be two separate Sweepstakes awards in each division: one for News and Writing AND one for Advertising.

Points awarded in each category

- First Place – 100 points
- Second Place – 70 points
- Third Place – 60 points

Recognition of Winners

Winners will be recognized during the KPA convention on April 12 at the Hilton Garden Inn in Manhattan, KS.

Contest Categories

DEADLINE: FRIDAY, JAN. 17

NEWS & WRITING CATEGORIES

1. Feature Story - Judging based on writing style, originality and interest. Limit two entries per person. One story constitutes an entry.

2. News Story - Judging based on community importance of event, timeliness, thoroughness of reporting and writing style. Limit two entries per person. One story constitutes an entry.

3. Investigative Story - Judging based on writing style, community importance of event, enterprise and thoroughness of reporting. May include a single story or series of stories. A series constitutes one entry. Limit two entries per person. All first place entries will be considered for the Murdock Award which includes an award statuette and a \$1000 cash prize.

4. Series - Judging based on writing style, reader interest, enterprise and thoroughness of reporting. A series constitutes one entry. Limit two entries per person. All first place entries will be considered for the Murdock Award which includes an award statuette and a \$1000 cash prize.

5. Editorial Writing - Judging based on local impact, reasoning, writing excellence and leadership shown through the editorials. Submit three different samples of editorials by the same writer. The three editorials constitute one entry. Limit one entry per person.

6. Local Business Story - Judging based on writing style, community importance, originality and enterprise. Limit two entries per person. One story constitutes an entry.

7. Government/Political Story - Judging based on local impact, writing style, originality and enterprise. Limit two entries per person. One story constitutes an entry.

8. Religion Story - Judging based on writing style, community importance, originality and enterprise. Limit three entries per person. One story constitutes an entry.

9. Agricultural Story - Judging based on writing style, community importance, originality and enterprise. One story constitutes an entry. Limit two entries per person.

10. Youth Story - Judging based on writing style, interest to community youth, originality and enterprise. One story constitutes an entry. Limit two entries per person.

11. Education Story - Judging based on writing style, community importance, originality and enterprise. One story constitutes an entry. Limit two entries per person.

12. Column Writing - Judging based on writing style, originality and reader interest. Submit three different columns from the same writer. The three columns constitute one entry. Limit one entry per person.

13. Sports Story - Judging based on deadline writing style, reader interest and originality. One story constitutes an entry. Limit two entries per person.

14. Sports Feature Story - Judging based on general interest, writing style and originality. One story constitutes an entry. Limit two entries per person.

15. Sports Column Writing - Judging based on writing style, originality and reader interest. Submit three different columns from the same writer. The three columns constitute one entry. Limit one entry per writer.

16. Headline Writing - Judging based on originality and effectiveness of headlines, appropriateness for story subject and layout of headlines. Submit tearsheets identifying three headlines with stories to be judged. Limit one entry per person.

17. News & Writing Excellence - This is an overall evaluation of the newspaper's news and writing ability. Judging based on writing styles, originality, headlines and general interest. Submit three complete issues of the newspaper, one from each of the following periods: January - April, May - August, and September - December. Awards are presented to the newspaper. Limit one entry per newspaper.

54• Best Environmental Story - News and Writing

News or feature stories may be submitted. Judging is based on quality of writing. Extra consideration will be given to entries that show a strong ability to explain complicated environmental issues.

56• Best Story/Picture Combination

Entries should consist of stories that would not otherwise be told adequately without the combination of text and visual elements. Judging is based on the entire single-day story package. Limit five entries per newspaper.

NEW FOR 2014:

58• Best Story Originating From a Public Notice

A feature, news or investigative story that originated with a public notice. The story and the public notice must be included.

PHOTOGRAPHY CATEGORIES

18. News Photo - Judging based on timeliness, impact and technical quality. Category includes black and white or color photos. One photo constitutes an entry. Limit four entries per person.

19. Feature Photo - Judging based on reader appeal, quality and photographic excellence. Category includes black and white or color photos. One photo constitutes an entry. Limit four entries per person.

20. Sports Photo - Judging based on action, newsworthiness and quality. Category includes black and white or color photos. One photo constitutes an entry. Limit four entries per person.

21. Photo Package - Judging based on overall theme, design and photo quality. A photo package is defined as three or more photos packaged together in a layout. Category includes black and white or color photo spreads. Limit five entries per newspaper.

22. Photo Illustration - Judging based on originality, creativity, artistic quality and subject matter. A photo illustration is defined as a manipulated or preconceived photograph used as a graphic to accompany a story. Entries will be judged in one daily and one nondaily category with no circulation divisions. Limit two entries per person.

23. Best Use of Photos - Judging based on overall use of photos throughout the newspaper, photo layout, photo quality, general interest and impact. Submit three complete issues of the newspaper, one from each of the following periods: January - April, May - August, and September - December. Awards are presented to the newspaper. Limit one entry per newspaper.

55. Best Environmental Portrait - Photography
Posed image of one or more subjects (which could be human or animal, depending on the story) that helps tell the story by conveying why the story is being told about the subject, what they do, etc. Judging based on photo quality, creativity, story-telling power, and relevance.

DESIGN & LAYOUT CATEGORIES

24. Editorial Pages - Judging based on editorial content, leadership, community interest, impact and layout and design. Submit three editorial pages, one from each of the following periods: January - April, May - August, and September - December. Awards are presented to the newspaper. Limit one entry per newspaper.

25. Sports Pages - Judging based on layout, use of photos and graphics, and variety of articles. Submit three sports pages/sections, one from each of the following periods: January - April, May - August, and September - December. Awards are presented to the newspaper. Limit one entry per newspaper.

26. Special Section - Editorial - Judging based on news, layout, editorial content and local coverage. Submit entire special section. Awards are presented to the newspaper. Limit three entries per newspaper.

27. Feature Package - Judging based on quality of writing and photos, use of photos and layout of package. Limit five entries per newspaper.

28. Infographic - Judging based on originality, creativity, artistic quality and relation to subject matter. This category is for any graphic that explains information used for the story (i.e. map, chart, etc.) Entries will be judged in one daily and one weekly category with no circulation division. Limit two entries per person.

29. Design and Layout Excellence - This is an overall evaluation of the newspaper's design and layout. Judging based on layout and design of each page, use of white space, font selections and use of photos and graphics. Submit three complete issues of the newspaper, one from each of the following periods: January - April, May - August, and September - December. Awards are presented to the newspaper. Limit one entry per newspaper.

30. Best Front Page - Judging based on layout and design, use of photos and graphics, headlines, local coverage and reader appeal. Submit three front pages, one from each of the following periods: January - April, May - August, and September - December. Awards are presented to the newspaper. Limit one entry per newspaper.

MISC. CATEGORIES

31. Community Service Project - Judging based on originality of idea, effectiveness of project, newspaper leadership and community participation. Submit a one-page summary of the project along with samples of materials used in the project. Community service projects may include NIE programs, Kids Voting Kansas sponsorships or any other project aimed at serving the newspaper's community. Entries will be judged in one daily and one weekly category with no circulation division. Awards are presented to the newspaper. Limit one entry per newspaper.

Contest Categories

DEADLINE: FRIDAY, JAN, 17

32. Best Newspaper Web Site - Judging based on layout and design, graphics, user-friendliness, timeliness and local appeal. Include a temporary user name and password for the judges if your site is password-protected. Awards are presented to the newspaper. Limit one entry per newspaper.

Online Video Categories

33. Best Online Video (News)- Single online video depicting a breaking news story.

34. Best Online Video (Feature) - Single online video or series of videos featuring a specific topic.

ADVERTISING CATEGORIES

35 • Best Grocery Ad

Single ad for supermarket, grocery store, convenience store, specific food/beverage brands or other grocery advertiser

36 • Best Professional Service Ad

Single ad for bank, accountant, attorney, travel agent, college, funeral director or other professional service advertiser

37 • Best Furniture Ad

Single ad for furniture store, appliance sale, upholstery store or other furniture industry advertiser

38 • Best Hardware Ad

Single ad for lumberyard, hardware store, home center and other hardware-related advertiser

39 • Best Fashion Ad

Single ad for clothing store, seamstress, fabric store, shoe store or other fashion-related advertiser

40 • Best Automotive Ad

Single ad for car/truck dealer, automotive repair shop or other automotive industry advertiser

41 • Best Classified Display Ad

Single ad that was in the classified section of your newspaper.

42 • Best Specialty Ad

Single ad for any specialty item. Examples: jewelry stores, craft stores, Pampered Chef.

43 • Best Healthcare Ad

Single ad for hospital, pharmacy, doctor, dentist or other healthcare industry advertiser

44 • Best Political Ad

Single ad or series of ads for a candidate, ballot issue, political party or other political advertiser

45 • Best Entertainment Ad

Single ad for restaurant, theater production, bowling alley, golf course, movie theater or other entertainment industry advertiser

46 • Best Agricultural Ad

Single ad for farm implement company, co-op, seed and fertilizer dealer, livestock auction or other ag industry advertiser

47 • Best Ad Series or Campaign

A series of three or more ads with a common theme designed for the same advertiser

48 • Best Community Event Ad

Single ad for sidewalk sale, rodeo, festival, fair or other community event

49 • Best House Ad

Single ad or series of ads promoting subscriptions, advertising or a specific aspect/department of the newspaper

50 • Most Adaptable Promotion

Single overall idea for an ad or series of ads that could be adapted for advertisers in other markets

51 • Best Online Ad (Static)

Single static ad designed for the newspaper's Web site. Submit the complete URL and headline of ad.

52 • Best Online Ad (Motion)

Single Motion ad designed for the newspaper's Web site. Submit the complete URL and headline of ad.

53 • Best Online Promotion

Single newspaper online promotion ad.

57 • Special Section - Advertising

Judging based on advertising content and design. Submit entire special section. Awards are presented to the newspaper. Limit three entries per newspaper.

How to Upload

This year, entries to the KPA Awards of Excellence will be submitted using a web-based program at www.betterbnc.com. Below are directions for preparing and submitting entries. If you have questions, please contact Emily Bradbury at (785) 213-8524, or ebradbury@kspress.com.

IMPORTANT: The contest platform is optimized for Firefox for PC and Macintosh. Please have a recent version downloaded and installed for the best contest experience.

The deadline for all entries is Friday, Jan, 17, 2014.

1. Login
 - a. Go to <http://betternewspapercontest.com>
 - b. Click contestant login (upper left).
 - c. Select "2014 KPA Awards of Excellence"
 - d. Select "Contestant Manager".
 - e. Select your newspaper name
 - f. If you are a new contestant, you will enter "bnc" as your newspaper password. If you are a returning contestant, please enter your password from last year's contest. Click "Login".
2. Submit Entries
 - a. On the Manage Entries page, click Submit Entry (left side).
 - b. Select the appropriate contest division
 - c. Select the appropriate contest category.
 - d. Read the corresponding Category Note (directly below the Category selection box), describing what is expected for the category's entry content.
 - e. Complete the Headline/Title field. This is VERY important as the judges need to know which story to read if a full page PDF is provided.
 - f. Based on the type of entry, add content:
 - i. To upload digital file attachments (other than audio/video), click Browse, navigate to the desired file, select Open, and click Upload. Allowed file types are PDF, DOC, TXT, JPG, GIF, and PNG. If more than one attachment is desired for this entry, repeat these steps. If you reach a point where you cannot add any more attachments to an entry, you may have reached the attachments limit, set by your contest administrator. Please try to keep file sizes to 5mb or less, to aid judges in accessing entry content. For larger files (between 5-50mb), you may upload your file(s) to www.issuu.com, and copy and paste the URL into the Web URL field. ISSUU will need to be used for the following categories: News and Writing Excellence, Design and Layout Excellence, Best Use of Photos and Special Section. See next page for details on ISSUU.com
 - ii. To add web/audio/video content, copy and paste the content's web address into the provided Web URL field. To host your content online, either upload it to a free streaming content website (e.g. YouTube) or talk to your IT person about adding it to your newspaper's website. Make sure the content will be accessible online throughout the contest and awards process. Here are some examples of free streaming content websites where you can upload audio and video content:
Audio: www.kiwi6.com, www.tindeck.com
Video: www.youtube.com, www.vimeo.com
- g. Click Next.
- h. Add Credits for those responsible for the entry content. Please check for accuracy - the names entered here are what we use for the plaques and certificates.
- i. Add Comments (if available), but keep them brief (e.g. 100 words).
- j. Click Submit.
3. Payment for Entries
 - a. When all entries are submitted (but before the Entry Deadline), log in to your account's Manage Entries page.
 - b. Click Calculate Entry Fee (middle right) and review your list of entries for accuracy.
 - c. Scroll to the bottom of the list for your Entry Fee Subtotal (lower right). Remember, the program will not add the \$25 entry fee to your total. Please add \$25 before submitting payment.
 - d. Click the payment link (lower left) to pay for your contest entries, following the instructions on the payment page.
 - e. (Optional) Click the Print icon (upper right) to print your list of entries and fees.

You may pay with a credit card (please call the office) or you may mail a check to the KPA office. Please submit your online invoice with your payment if you pay by mail. Be sure to add your \$25 base entry fee to the payment!

ISSUU.COM

ISSUU.com is a free online service that allows high-quality and customizable viewing of uploaded material. ISSUU.com can be used to upload special sections, complete editions of your newspaper for News and Writing Excellence/Design and Layout Excellence categories and other large, multi-page files.

Simply upload your pages to ISSUU.com and a unique URL will be created that can be added to your online contest entry form that will take the judge directly to your content on the ISSUU.com site.

To create your entry URLs:

1. Go to www.issuu.com
2. Choose "Create Account" on the top right navigation bar.
3. Click "Publisher" in the pop-up window. Choose the free account (\$0).
4. Create your username and password or connect with one of three accounts (Facebook, etc).
5. The second page is a tour of ISSUU.com. You may skip the tour.
6. On the top right navigation bar, choose "Upload." This will walk you through the necessary steps to upload your publication.
7. Once you have uploaded your document, it will appear in "My Library."
8. Double click the document for which you would like to obtain a URL. Below the document are several options, including the "Share" option. Simply copy and paste the URL into the online contest entry form.
9. Once you have pasted the link into the online contest entry form, judges will be able to access your entry without the need for a password or ISSUU.com account.

SPECIAL NOTES: Please make sure you make your publication "public" so that your ISSUU.com account will be free and your publications will be available to the judges.

ALSO: Please combine all of your PDFs in Adobe Acrobat before you upload to reduce the amount of files the judges have to open. You can see how to merge PDF files using this link:

<http://www.wikihow.com/Merge-PDF-Files>

If you have problems uploading your entries or have questions about the process, please contact Emily Bradbury at 785-213-8524 or ebradbury@kspress.com.

Salina Journal

333 S. Fourth Street

Salina

KS, 67401

(785) 823-6363

January 15, 2014

The Hon. Rep. John Rubin
Chair, Corrections and Juvenile Justice Committee
Kansas House of Representatives
Topeka, Kansas

Mr. Chairman:

I respectfully submit the following as testimony before your esteemed committee as you gather pertinent information re the unique and, as such, constitutionally contrarian Kansas law that requires all affidavits in support of arrest warrants remain sealed and secret, despite being part of the official records of state courts.

In a random sampling across the United States, no other state could be located that specifically seals and keeps secret the supporting affidavits attached to arrest warrants, once those warrants are executed and returned to the court of issuance – specifically, the jurist who authorized the warrant.

In fact, each state that borders Kansas – Colorado, Nebraska, Missouri and Oklahoma – require that such affidavits are part of the public court record. And they ensure that public access for very specific reasons.

First and foremost, providing public access to supporting affidavits conforms to the intent and interpretation of the Fourth Amendment to the United States Constitution, to wit:

“The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

The Fourth Amendment was, and is, intended to divert this country away from fears of a police state. In requiring a warrant for arrest, it follows that anyone who is the subject of a police action has the right to know what justification law enforcement has for placing them under arrest, specifically what probable cause exists that led police investigators to the conclusion that a suspect should be arrested. In Kansas, no such right of access to that justification exists.

That ideal extends beyond philosophical constitutional interpretation, and enters into U.S. Supreme Court decisions, court rulings and in some states, judicial rule books.

Once an arrest warrant is returned to the court of issuance, with supporting affidavits attached, that warrant becomes part of the court record. Keep in mind that warrants are returned after an arrest has been made, not before. It is at the point of warrant return the need for seal or secrecy no longer exists, except under certain specific circumstances as deemed necessary by court order. Generally, after a person or persons have been arrested, and law enforcement continues gathering evidence, or turns their case over to local prosecutors, seal and secrecy of the details of the warrant become moot.

And as the U.S. Supreme Court has decided on numerous occasions, records of the courts fall under the common law right of access. The courts have maintained consistently for the last 100 years that court records – absent a specific reason in individual cases as determined by a judge via a hearing – are public records. Common law right of access ensures that our judicial system remains free and open to the public, allowing a free society to remain so with windows wide open to the courts and how they work, and rule.

It becomes logical, then, that arrest warrants and supporting affidavits, as part of the court record, should be open for public inspection – as they are in federal courts, and virtually every other state in the nation except Kansas.

In support of that argument, I offer case law from Pennsylvania, *Fenstermaker, 515 Pa. at 508, 530 A.2d at 418*. In that case, three defendants were arrested and charged with homicide, rape, assault and indecency. Lancaster (PA) Newspapers Inc. requested the arrest warrants and affidavits after the three men were under arrest. The newspaper was denied full access.

The landed before the Pennsylvania Supreme Court, which ultimately ruled that the warrants, and affidavits, were public records as part of the common law presumption that all court documents are open for public review.

According to the court, it is "clear that the courts of this country recognize a general right to inspect and copy public records and documents including judicial records and documents" and concluded that the "right . . . to inspect and copy judicial [documents] antedates the Constitution and has been justified on grounds of the public's right to know and the public's right to open courts."

In Connecticut, the Judicial Practice Book spells out access to arrest warrants very clearly. *Connecticut Practice Book 36-2, 42-49A* specifically says:

“Unless the judicial authority issuing an arrest warrant has, upon written request of the prosecuting authority, entered an order limiting disclosure of the supporting affidavits, all affidavits ... shall be open to public inspection and copying and the clerk shall provide copies to any person upon receipt of any applicable fee.”

Keep in mind the courts in virtually all states still have the right and authority, on a case-by-case basis, to conduct a hearing to determine if supporting affidavits should remain sealed out of concern for damaging a continuing investigation. Courts have been consistent in ruling that sealing a record is a viable option for a judge, but have cautioned trial level jurisdictions to do so *only* when evidence presented in hearing clearly and substantially shows an investigation will be jeopardized, or a suspect may be forewarned of potential law enforcement engagement, putting life in danger.

In Kansas, the argument for arrest warrant affidavits becoming public record once they are returned to the court was highlighted just weeks ago by federal prosecutors in Wichita.

Shortly before Christmas 2013, the FBI and other federal and local investigators arrested a Wichita man, after a sting operation, on charges of attempting to plant bombs at Mid-Continent Airport. The assistant United States Attorney, flanked by federal, state and local law enforcement officers, conducted a press conference to detail the sting and the arrest. At the close of the press conference, the U.S. attorney handed out copies of the arrest warrant, complete with the attached supporting affidavit, to each member of the media in attendance.

If the federal government has no issue with public access to arrest warrant supporting affidavits, the question then becomes, why does the state of Kansas?

Aside from the legal justification, supported by case law and common law practice virtually everywhere outside Kansas, there is compelling argument philosophically.

Our nation and our state both are built on a foundation of freedom that is supported, nay fostered, by a spirit and practice of openness. That the public has a desire, and right, to observe, question, and, if need be, change our government and its workings is inherent in our beliefs and rights.

Allowing supporting justifications for putting a suspect in jail to continue to be a secret document directly contradicts the spirit and intent of both our Constitution, and our beliefs in an open society. As a people, we require constant monitoring of our government from its citizens to ensure that it not only remains open, but remains free from the constraints of a police authority that can act as it pleases behind the veil of secrecy. Such is the case – and continual fear – when the good people of Kansas can be the subject of a police arrest without being allowed access to the very information the police presented to a judge to justify their actions.

Freeing what the courts already have determined through decades of jurisprudence to be judicial records – documents that are presumed to be open and available to any citizen – from the shackles of a state statute that casts a shadow on our freedoms is the right thing for this committee, the House of Representatives and the Legislature to accomplish.

I urge you to take the first step in correcting this miscarriage of openness in our government, and create the appropriate legislation that would ensure the public's right to examine such judicial records.

Thank you for taking the time to hear these arguments.

M. Olaf Frandsen
Editor & Publisher, Salina Journal
President, Salina Journal Inc.

Witness background:

- 31 years experience in the newspaper business, currently Editor & Publisher of the Salina Journal in Salina, KS.
- Career highlights include work as a reporter, editor and publisher at newspapers in Arizona, Montana, North Dakota, Texas, Southern California and Northern California.
- Most recently left Texas (March 2012) after serving as a vice president for California-based Freedom Communications, responsible for the oversight of 10 newspapers.
- Three years as adjunct professor and distinguished lecturer at the University of Texas, teaching Media Law & Ethics (2009 to 2012).
- Undergraduate degree in Journalism from the University of Arizona, and MBA from the University of Phoenix.

January 15, 2014

Testimony by Mike Kautsch*

FOR AN INFORMATIONAL HEARING ON PROBABLE CAUSE AFFIDAVIT SECRECY IN KANSAS, CONDUCTED BY THE CORRECTIONS AND JUVENILE JUSTICE COMMITTEE OF THE KANSAS HOUSE OF REPRESENTATIVES, CHAIRED BY REP. JOHN RUBIN - 1:30 P.M. WEDNESDAY, JANUARY 15, 2014, IN ROOM 152-SOUTH AT THE CAPITOL

Probable cause affidavits that support arrest and search warrants should be presumed open and accessible to the public after the warrants have been executed. The affidavits contain important information about crime and criminal justice that the public needs to know. The current presumption of closure that applies to affidavits results in unnecessary secrecy and is contrary to the state's public policy. The Kansas Open Records Act (KORA) declares in K.S.A. 45-216(a) that public records generally shall open for inspection. The purpose of KORA is to "insure public confidence in government by increasing the access of the public to government and its decision-making processes. This increases the accountability of governmental bodies and deters official misconduct." See *Cypress Media, Inc. v. City of Overland Park*, 268 Kan. 407, 410 (2000), quoting *State Dept. of SRS v. Public Employee Relations Board*, 249 Kan. 163, 170 (1991).

The presumption of closure that applies to affidavits limits the news media's ability to report in a timely and thorough way on crime and law enforcement. Moreover, because of the presumption of closure, even private citizens who have a direct interest in the affidavits may find them inaccessible. For example, a Leawood couple incurred \$7,000 in legal expenses to gain access to an affidavit and other documents related to raid on their home by law enforcement agents. The husband and wife sought the affidavit to learn why the raid had occurred. The couple's difficulty in obtaining the affidavit was a sign of exceptional lack of transparency in the Kansas criminal justice system. See news reports by Karen Dillon in *The Kansas City Star: Evidence for search of Leawood home called flimsy*, (May 3, 2013), and *Getting police reports, criminal records often requires lawsuits in Kansas*, *The Kansas City Star* (May 12, 2013).

The secrecy that surrounds affidavits in Kansas drew widespread attention following the 2005 arrest of Dennis L. Rader, the "BTK" serial killer in Wichita. After he was in custody, access was denied to the affidavit that supported the arrest. Also, controversy erupted when a Wichita resident, Roger Valadez, was not allowed to see an affidavit that supported a search of his home during the BTK investigation. See *Nation Briefs / BTK Documents Kept Off Limits*, *The Miami Herald* (May 22, 2005); Roxana Hegeman, *Former suspect wants search warrant materials*, *The Associated Press* (July 20, 2005); Ron Sylvester, *[T]he man BTK investigators took into custody in December won't get to find out why police suspected him*, *The Wichita Eagle* (September 10, 2005); *The Associated Press, Bill would open probable cause affidavits*, *Topeka Capital-Journal* (February 08, 2006), and Ron Sylvester, *Will BTK files be sealed 'forever'?*, *The Wichita Eagle* (March 14, 2007).

Neither experience nor logic supports the presumption that affidavits must be closed. Other states generally do not presume closure of affidavits. The experience of those states does not indicate that criminal justice is impaired by transparency. Moreover, a rule presuming openness worked well for many years in one Kansas judicial district—namely, the 5th, consisting of Chase and Lyon counties. In the past, I have been in touch with a newspaper editor in Emporia about how arrest warrant affidavits were open there by virtue of a local district court. She talked about how exceptions to the

rule, adopted 20 or more years ago, included exceptions to openness, principally in high-profile criminal cases or ones that involve sex crimes, especially against minors. In such cases, an affidavit may be sealed. Yet, the editor said, the courts' general practice was to open affidavits as soon as the original need for the sealing had passed. An alternative approach, she said, was for the authorities to seal a full affidavit but, at the same time, to place a version with some redactions on the public record.

The openness practiced in Lyon and Chase counties is like that mandated by statute in other states. The Wichita Eagle reported in 2005 on the accessibility of affidavits nationally, saying: "In other states, including Texas, Missouri and Oklahoma, the affidavits are open to public view unless sealed by a judge for a specific reason." See Dion Lefler, *Affidavits in Many States Open to Viewing—in Kansas, When Police Seek an Arrest or Search Warrant—Such as in the Case of the BTK Suspect—the Affidavit Is Not Available to the Public* (March 5, 2005).

Texas law illustrates how a state may provide for openness of affidavits. Here is an excerpt from Vernon's Ann. Texas C.C.P. Art. 15.26 - Authority to Arrest Must be Made Known:

The arrest warrant, and any affidavit presented to the magistrate in support of the issuance of the warrant, is public information, and beginning immediately when the warrant is executed the magistrate's clerk shall make a copy of the warrant and the affidavit available for public inspection in the clerk's office during normal business hours. A person may request the clerk to provide copies of the warrant and affidavit on payment of the cost of providing the copies.

Regarding search warrant affidavits, Texas law includes a provision that an attorney representing the state in a felony case may request that an affidavit be sealed, but must establish a "compelling state interest" in closure. See Vernon's Ann. Texas C.C.P. Art. 15.26 - Art. 18.011. Sealing of Affidavit.

In jurisdictions where probable cause affidavits are presumed open rather than closed, the public can gain important, timely information about crime and law enforcement. Information from affidavits can help the public ascertain whether law enforcement agencies are competent and trustworthy or engaged in wrong-doing, such as by making false or ill-founded statements in support of their warrant applications. The public also can learn about patterns of criminal activity and understand how communities best may protect themselves against the criminal element.

A presumption that affidavits are open is needed to prevent secrecy in the administration of criminal justice in Kansas and to throw light on important matters of public concern. That a presumption of openness is valuable and practical already has been shown in the 5th judicial district of Kansas and in other states.

* Mike Kautsch is a professor of law and director of Media, Law and Technology studies at the University of Kansas School of Law. This testimony is offered as a personal statement of opinion with the hope that it will be of help to the Committee. The testimony is not offered on behalf of the University of Kansas or the School of Law and is not reflective of any institutional view or position.



Kansas Press Association, Inc.

Dedicated to serving and advancing the interests of Kansas newspapers

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Jan. 15, 2014

To: Rep. John Rubin, chairman of the House Corrections and Juvenile Justice Committee, and members of the committee

From: Doug Anstaett, executive director, Kansas Press Association

Re: Probable cause affidavits issue

Chairman Rubin and members of the committee:

Thank you for this opportunity to address your committee regarding the Kansas Press Association's continuing concerns about how probable cause affidavits are handled in the state of Kansas.

The system of justice in the United States is designed to provide fair and impartial treatment to all parties in a dispute. For fairness to prevail, and for an important check and balance to operate as it should, the affidavits that seek to prove probable cause for arrests and search warrants must be open to public inspection once they are executed.

We need to right a huge wrong that sets Kansas apart. Each and every one of the states bordering Kansas — in fact, almost every other state in the union for that matter — provide that these affidavits are presumed to be open court records once an arrest has been made or a search warrant served.

Why is that? And why is it such an important issue to the newspaper reporters my association represents?

Because news coverage of our law enforcement and court system is an integral part of helping to meet what in America we call "the people's right to know." When the people have the facts, they are equipped to judge whether their system of justice is fair and impartial.

In our country, we believe no one is above the law, including those whom we count upon to enforce those laws. Probable cause affidavits are powerful documents; they provide the underlying reasons why someone's freedom can be suspended or his or her home searched for evidence.

These affidavits give tremendous power to the police. Consequently, they must contain more than mere suspicions; they must contain evidence sufficient enough to convince a judge to believe that a crime has been committed and that the person named has committed it.

Yet, right now in our state, there is no public scrutiny of such affidavits. While we know the vast majority of law enforcement officers and district and county attorneys take their obligations seriously, we do not know which ones do not.

When we seal all records, those who would lie, cheat or provide fraudulent testimony in support of a warrant are left virtually unchecked. Yes, those affidavits can be inspected by defense attorneys and judges, but what if no charges are ever filed? We've seen example after example of arrestees having no way to ascertain what evidence law enforcement used as a basis for their apprehension, except at huge personal expense. This is a travesty and certainly not worthy of what many of believe to be the best legal system in the world.

Our study, and others by newspapers and your own Legislative Research Department, indicate Kansas stands almost alone in systematically closing this information to scrutiny by the public and press. Judges hardly ever open these records even though they have that discretion, except in Lyon and Chase counties in Kansas, where judges have routinely opened these records because of the leadership three decades ago by then District Judge and now retired Court of Appeals Judge Gary W. Rulon, and since then by his successors those counties.

Kansas' stance on probable cause affidavits is an embarrassment that must be corrected.

This distrust of the public is unconscionable. We can, in fact, "handle the truth." Open court records serve to protect everyone: the public, defendants, the integrity of our system and, yes, even our law enforcement officers, prosecutors and courts.

One of the arguments you will hear from our opponents is that opening up probable cause affidavits will lead to prejudicial pre-trial publicity, tainted jury pools and extra expense as trials are moved to venues where no one has heard much about the case. That is a fantasy not supported by the facts. In fact, it's baloney cooked up by a system that has come to love the lack of oversight and scrutiny over the past 35 years.

Those in the media understand that certain information must be protected, including the names of informants, confidential investigative methods, information that might endanger the life or physical safety of someone or reveal the name of a victim of a sexual offense. Exceptions for those circumstances are allowed for and prominently spelled out in our proposed legislation.

On behalf of the 230 member newspapers in the Kansas Press Association, I ask that you support this long-overdue change.

Thank you for your time.