

Department of Media and Communications

**MC71116A
(MA Radio)**

***Asking the Right Questions
READER PACK***

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Asking the Right Questions MC71116A Reader for MA Radio 2011-2012



Reporters and sub-editors 'asking the right questions?' in the BBC Radio newsroom during World War Two

1. 'Reporting Numbers and Statistics' Chapter 8 and 'Investigative Reporting' chapter 9 from *The Universal Journalist*, third edition 2007 by David Randall, London: Pluto Press. Pages 90 to 118
2. 'Investigative reporting' chapter 11 by Nick Nuttall, and 'Glossary' from *The Newspapers Handbook* edited by Richard Keeble 4th edition 2007, London & New York: Routledge. Pages. 204 to 218 and 266 to 279
3. 'Journalism of Verification' chapter 4 from *The Elements of Journalism* by Bill Kovach & Tom Rosentiel, London: Guardian Books, 2003. Pages 70 to 93
4. 'Court Reporting' chapter 14 from *Essential Reporting: The NCTJ Guide for Trainee Journalists* by Jon Smith, London et al: Sage, 2007, 2011. Pages 173 to 192
5. 'Freedom of Information Legislation', Chapter 13 from *Comparative Media Law & Ethics* by Tim Crook, London & New York: Routledge, 2009/2010. Pages 412 to 439

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David Randall

The Universal Journalist

Third Edition

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Reporting Numbers and Statistics

A journalist is a grumbler, a censurer, a giver of advice, a regent of sovereigns, a tutor of nations. Four hostile newspapers are more to be feared than a thousand bayonets.

Napoleon

Quite a few journalists have the idea that numeracy is a kind of virus which, if caught, can damage the literary brain, leading to a permanent loss of vocabulary, and a shrivelling of sensitivity. This is nonsense and dangerous nonsense, because so many stories are statistically based these days. Journalists are bombarded with surveys, opinion polls, PR people, businesses, pressure groups and politicians all quoting what seem to be, at first glance, impressive figures. Far from innumeracy being some badge of literary worth, it is, for the modern journalist, a fatal weakness. If you don't know enough to question data then you really are impotent as a journalist. Sources play tricks with numbers all the time. Without the rudimentary knowledge to sniff out the bullshit figures, you will have to swallow what sources tell you and faithfully reproduce it. The result? Your readers are misled and misinformed and you look – and, indeed, are – foolish.

Happily there is protection and that is to arm yourself with enough knowledge to understand day-to-day statistics. If that thought intimidates you, then be assured that what follows contains no maths that a child of 12 could not understand. If you are still intimidated, then maybe it's time to find another job; for, whether you like it or not, you will be dealing with statistics in some form or another every day of your working life.

Questioning data

Statistics, like any other source, have to be questioned. That means interrogating those promoting the figures, the data itself and any conclusions drawn from it. The starting point is:

Does the story sound likely?

It is surprising how often it does not. In 1999 I was confronted with a story that said that 50 per cent of personal loans advanced by banks to women were for cosmetic surgery. In the plushier parts of Los Angeles, California that might just be plausible. In London, it was not. When checked, the statistic was really: half the personal loans given to women for health purposes were for some kind of non-essential surgery. That sounded a lot more likely – and far less newsworthy. The story was killed.

Then there is the kind of story which requires a slightly quicker wit to spot. In the US, a newspaper published a story saying that 50 per cent of the residents in Itapum, Brazil use tranquillisers. It could be true, but a little reflection tells you that it is not. Towns must have children and teenagers. In small towns in Brazil under-18s make up at least half the population. So does this mean that the other half – every single adult, even the 90-year-olds – are all taking tranquillisers? Unlikely. Soon after the story was published a correction was made. The true figure was 16 per cent – of the adult population.

Many numbers abuses are the result of willful spinning by pressure groups or governments, and then numbers-phobic reporters taking the data at face value. I recently stopped a story appearing which would have informed readers that 'stress and depression cost the UK economy nearly £5bn a year'. When questioned, the reporter said the figure came from campaigners who calculated that when people are off sick, their employers immediately hire a temporary replacement. Yeah. Right.

The antidote to this, and most other numerical nonsense, is the question: does it sound likely? Mostly, it will not. A few years ago, a survey said that 11.5 million American children were at risk from hunger. But it turned out they were judged to be at risk if their parents answered yes to any one of eight questions, which included such catch-alls as: 'Did you ever rely on a limited number of foods to feed your children because you were running out of money to buy food?' Does that sound to you like starvation – or life as it is in millions of households just before pay day? Further evidence for my motto: Beware any story which involves a survey.

If the main thrust of the figures at least seems believable, then the next question is:

What is the source of the data?

Is it a university, private company, polling organisation or pressure group? Are they qualified to collect or understand this data? Or is research by a reputable source being used by some third party? If the latter, then go back to the original researchers, ask what they think of the use to which their data is being put and invite comments on the conclusions being drawn from it. This can result in a better story than the original.

Where did it come from?

If someone can't tell you where the numbers came from – often the case with second-hand surveys and surveys of surveys – alarm bells should ring.

Why are they putting out this data?

Why are they telling me this? Do they have an axe to grind or an angle to promote? A study of the effects on rural employment of a ban on hunting has rather diminished credibility if it comes from researchers hired by the pro-hunting lobby. Deliberately falsified research from pressure groups is, however, rare. They are far more likely simply to not publish research which conflicts with their cause, or analyse figures in a way which supports a pre-conceived idea. The myriad ways of fiddling statistics are dealt with later in the chapter.

Why are they putting it out now?

Timing is rarely an accident, even among academic researchers. What may seem a haphazard date on which the unworldly academics completed their labours in the ivory tower and handed down their wisdom, will probably prove to be rather more closely linked to the need to reapply for government grants, pitch for some new sponsorship or put some published research on the departmental CV just in time for the next government assessment. With commercial and pressure group data, you can rely absolutely on there being some strong rationale behind the timing. Businesses are animated by a new product launch, word of one by a rival, the imminence of a shareholders' meeting, etc. Nor is the reason behind the timing always obvious. It should, however, invariably be part of the context of the story.

Is this data a product of the Chinese whispers effect?

This is where figures are presented by campaigners, or some otherwise biased source, as if they are well-known and established fact. Thus the

assertion that 200,000 people were stalked every year in the US turned out to be a distortion of a survey that 200,000 people exhibited stalker's traits. And an estimate of 150,000 young women suffering from anorexia in due course became '150,000 are dying from the disease' – three times the number of Americans killed in Vietnam.

Are the numbers taken out of context?

Data can sometimes seem superficially remarkable only because the context has been left out. In 1997, the Associated Press reported that 29 per cent of former employees of the Rocketdyne Santa Susana Field Laboratory were reported to have died from cancer. Cause for concern? Not really. Cancer is the cause of death among all people aged 44–65 in 35 per cent of cases – six per cent more than among the former laboratory workers.

Is the data comparing like with like?

Not using comparable statistics to reach an apparently newsworthy conclusion is a recurrent pitfall, too. In 2002, it was reported that 'more African American men are incarcerated than enrolled in college'. It's a shocking statement, but a misleading one. Prisoners can be anything from 16 to 96 years old, but college students are nearly all from the narrow age range of 18–23. Among black Americans of college age, nearly three times as many are students than convicts. So no story there, then.

How are the terms used being defined?

It is not uncommon for campaigners to adopt a very much wider definition of a common term in order to boost the numbers of people suffering from a certain condition. Thus, surveys of domestic violence can include 'raised voice' or 'walking out on an argument', both of which can be unpleasant, but neither of which fit what most think of when we hear the words 'domestic violence'. The Statistical Assessment Service (a wonderful online resource of numbers abuses found in the media from which many of the examples above are drawn) says that, in 1996, a report from the US National Center for Health Statistics 'received wide coverage for its finding that nearly 100 million Americans have "chronic diseases or disabilities"'. And what was the largest category in this 100 million? It was the 32 million Americans who have sinusitis or hay fever, which few of us would define as 'chronic diseases or disabilities'.

Yes it may have doubled, but what's the base?

A headline that the number of people killed by wasps has doubled may catch the eye, but when you read further down the story that the wasp

victims per year have gone up from four to eight (in a population of 60 million), the game is given away. And it is a game that is being played all the time in the media. The facts of the story are true, but have been manipulated in such a way to give an unduly shock-horror treatment. As former BBC political editor Andrew Marr writes in his book *My Trade*: 'BBC journalist Roger Harrabin has pointed out that if the cancer-causing risk of a useful drug is estimated at 0.01 per cent and then upgraded to 0.02 per cent you are still only talking about two patients in 10,000 being affected; yet the emotive headline "Cancer risk doubles" would be factually accurate.' But still a con.

Are the figures all round numbers?

This is invariably a sure indication of something less than rigorous science. A good rule is to presume that any source claiming '50 per cent think this' or '60 per cent do that' is guilty until proved innocent.

Are the graphics honest?

Graphs have vertical and horizontal scales and these can be adjusted to give the desired impression. A small rise can be made to look like a large one, or vice versa. Bar charts or graphics can also be deceptive. The old trick is a graphic representing income as money bags. If one income is twice another, then a bag twice as high as the base one is shown. But this is misleading because the resultant money bag is four times the area, and eight times the volume, of the original.

The uses and abuses of statistics

So far all that has been needed has been a dose of common sense and healthy journalistic suspicion. That will get you so far. But in properly reporting any story involving statistics, a little rudimentary maths is needed. Without it, you will get taken for a ride. For example: a firm in the middle of a pay dispute tells you that their staff's average salary is £28,000. So you report that – and look silly. What they've just told you is the mean, calculated by adding up all the salaries of all their staff – including the four family directors who are paid in excess of £200,000 a year. If the firm had given you the fairer figure, the median salary, it would have been £14,500. But if you don't know that the median exists, never mind what it is, how on earth can you prevent yourself from being taken in? So here is a journalists' guide to the uses and abuses of the most common statistics.

Averages

There are three kinds of average:

Mean

This is what most people mean by average. You add up all the values, divide by the number of values and that is the mean. Its weakness is that it disguises as much as it reveals. A mean says nothing about the range of values in the calculation. It will not, as in the case of the salaries above, show that a few high (or low) values completely distort the results and so give a misleading 'average'. Unfortunately, this falsifying kind of average is the one most commonly used. 'Unfortunate' because, when you write about 'the average father' or 'the average student' you want to refer not to some fictitious 'mean', but to the father or student in the middle. Which brings us to the median.

Median

This, in a set of values, is the value in the middle of the data. So for salaries ranging from £9,000 to £23,000, but with most at the lower end of the range, the salary in the middle might be £14,500 – a more accurate reflection of what most people are paid than a mean distorted by the high pay of a handful of directors. The confusion between the two most common types of average probably comes from people thinking of sets of values like the numbers 1–20. Here the mean is ten, and so is the median. This is because all the values are evenly spread and rise by the same increment each time. Data from the real world is rarely like that.

Mode

Put simply, this is the most common value in the set.

Distribution

What is often just as relevant as the median is the range the values cover and you often need to know this to begin to make sense of the data. For example, the mean temperature for two regions might be 61 degrees, giving the impression that their climates are similar. Wrong. They may share the same mean temperature but the range for the former is 45 degrees and for the latter, 130 degrees. Their climates are very different.

The range of the values is called the distribution. Most social data has a normal distribution with values close to the mean, plus a few at either extreme. For example, statistics for the average (mean) hours that people aged 21–40 sleep would be normally distributed. Few people regularly

get by on five or fewer hours a night and not many need more than nine. Most of the values would be around the 7.5–8 hours mark, with a steep decline in either direction. Plotting such a distribution on a graph results in a bell shape, hence the statistical term 'bell curve' to describe a normal distribution. On the other hand, the mean disposable income for 21–40-year-olds would vary tremendously – some existing on state benefits, others being millionaires. The distribution here would be much more spread out.

Percentages

It is amazing how often reporters, when fooling around with a few figures on a story, make mistakes when calculating percentages. So, for the benefit of anyone who played truant from maths classes, here's how to work it out: you take the old value from the new value, divide the result by the old value and then multiply the answer you have by 100. Or, to get a percentage increase or decrease, take the old figure from the new figure, divide by the old figure and then move the decimal point two places to the right to get the percentage. A decrease will be a minus figure.

Such a simple thing and yet a cause of so much confusion. It is, for instance, by no means unknown for mathematically impossible decreases of more than 100 per cent to find their way into stories. Nothing can fall by more than 100 per cent, because once it has, it has gone. If you doubt that, go back over the method in the paragraph above and try to make it result in more than 100. If something is reduced to a quarter of what it was, it has not fallen 400 per cent, but by 75 per cent.

Other pitfalls of percentages are:

Base figures

This is the old value, the value to which the new one is being compared. Always watch base figures. All but the most pathologically honest source will choose the base figure that, when compared with the new number, gives results that support their case. Always think – why was this base chosen?

Don't get the wrong base

If something is cut by 40 per cent, then raised by 20 per cent, many journalists would report that half the previous loss has been restored. Not so. If the original base is 100 and 40 are lost, then the new total is 60, and a 20 per cent raise of that is 12, leaving a new total of 72, well short of the 80 you would get if half the original loss had been restored.

Watch out for no base

Politicians and advertisers love slipping in claims that the unquestioning find impressive. 'We are now investing 25 per cent more in schools.' 25 per cent more than what? Than last year? Than the previous government? Than is invested in defence? Without the base, this kind of comparison is useless – and is probably being trotted out more to conceal than reveal. And watch out for sources giving out percentages on their own, unaccompanied by the raw figures they are based on.

You can't add percentages

Well you can, but not if you want to remain accurate. For example, if an industry's labour costs have gone up by 4 per cent, insurance costs have risen by 20 per cent and raw material costs are up 2 per cent, then the overall increase in costs is not $4+20+2=26$ per cent. A little reflection will tell you that insurance costs are unlikely to be anything other than a tiny fraction of labour and raw material costs. You have to add all the raw cost figures to arrive at a new total and then recalculate the percentage increase over the old total.

Don't forget the difference between percentage and percentage point

Percentage is a part of a whole where the whole is thought of as 100, while a percentage point is 100th of that whole. To get a grip on this, think of a market for a certain type of good. Various products will have a share of that market, each expressed as a percentage of the total market and adding up to 100. So, if Product A's market share falls from 5 per cent to 4 per cent, it has gone down by one percentage point but fallen by 20 per cent (or one-fifth), from five to four.

Per head

When comparing two communities, cities or countries, percentage changes on their own mislead as often as they inform. To compare things like social changes you need to know the populations of both places so that you can work out the rates per head.

Let's say, to paraphrase an example in Darrell Huff's excellent *How to Lie With Statistics*, you are writing a story about rape in two cities. Aville and Beeton both have 50 rapes a year. That makes them sound similar, until you ask how things have changed recently. Now you learn that five years ago there were 42 rapes in Aville and 29 in Beeton. So Aville's rise is 19 per cent and Beeton's is 72 per cent. Based on this data, hasty journalists might make plans to write a story about the rape crisis in Beeton, asking

what is going on there and what is being done about it. But big cities tend to have more crime than little ones. You need to know the rate per head. Calculate this by dividing the number of crimes by the population and then, to avoid dealing in miniscule figures to several decimal points, multiply the answer by 100,000 to give the rate per 100,000 people. Now things look a little different. Five years ago Aville had a population of 550,000 and a rape rate of 7.64 per 100,000. Beeton had a population of 450,000 and a rape rate of 6.44 per 100,000. Now Aville has 600,000 inhabitants, giving a rape rate of 8.33 per 100,000, and Beeton, which has expanded hugely, has a population of 800,000 and a rape rate of 6.25. So in fact, Beeton's rape rate has gone down by almost three per cent, while Aville's has gone up by nine per cent. Now you have the information for a more informative, balanced and less hysterical story.

In making any comparison, you need to know the rate per unit, whether it is per head, household, or miles travelled. For example, travel safety can only be assessed by accidents or deaths per passenger miles. The greater number of people killed in the air in 1998 compared to 1952 might suggest planes are more dangerous now. Looking at the figures per miles travelled quickly corrects that error. And remember to compare like with like. The death rate in the British army is lower than in the sleepy village of Lower Piddlington. Hardly surprising, one is a group of healthy young men, the other mainly the old and poor.

Surveys

Of all the types of news stories, surveys are consistently the most suspect. Every two-bit publicist has long since realised that here is an easily-concocted way of getting coverage for their cause, product, policies or organisation. They think of some controversial issue, or newsworthy subject, ask people questions about it and then construct a press release revealing that X is the nation's favourite breed of dog, Y its favoured policy or Z per cent are now doing this or that. And every day newspapers swallow such unscientific trivia and print it. Even worse is the social trend survey, which reports the discovery of some new sub-species of society based on a few speedy answers to a few unscientific questions.

Most of the surveys that try to seduce journalists come not from academics, but from businesses and activists. Neither group has much of a track record in producing dispassionate research. So when confronted with a survey the first issue is: who is telling you this – and why? Nor do the pitfalls of surveys stop there.

What is the sample?

Times without number, stories given high prominence fall apart when the question is asked: how big was the sample? Even experienced national

newspaper journalists have been known to write 700 word stories based on surveys which turn out to have samples numbering only dozens. Such samples, unless they constitute a sizable fraction of the total being measured (a sample of 20 in a class of 40, for instance), stand only a small chance of being representative. Their conclusions might be eye-catching (hardly surprising given how inaccurate they probably are) but that is no reason to publish them. The responsibility of journalists goes beyond finding a source for a story. It extends to bringing some intellect to bear on the material. And sometimes that means deciding there is no story.

How big should the sample be?

Obviously, the bigger the sample, the more likely it is to be representative. But, providing the sample is chosen intelligently, it does not have to be that big. Surveys of 1,600 people can, if carried out properly, be a very good guide to the division of opinion within a nation of 50 million. But that's all they are – a guide. How good a guide is indicated by the margin of error.

What is the margin of error?

This is the likely range of accuracy. Say a survey has a margin of error of 2.5 per cent. It finds that 45 per cent support the governing party, so the result has a range of 42.5 per cent to 47.5 per cent. Margin of error is calculated on the number of people in the sample (and not with any reference to the overall size of the population being sampled). The sample size dictates the margin of error, regardless of what it is a sample of. A sample of 1,600 has a margin of error of 2.5 per cent, and a sample of 400 has a margin of error of 5 per cent. A sample of 100, not untypical in surveys done for a quick bit of PR, has a 10 per cent margin of error. This means that a finding of 50 per cent in favour of X could in fact be 40 per cent or 60 per cent, or anything in between – not exactly precision work.

How was the sample chosen?

There is a huge credibility gap between a survey sample chosen at random and one that is self-selected. Self-selected polls are normally answered by those with a motive – either activists with a strong opinion (and thus far from being representative), or those who have been given an incentive to respond ('just complete this simple questionnaire and be entered in our prize draw').

Who's in the sample?

A good random sample makes sure everyone has an equal chance of being included. Even for statisticians this is not easy to achieve. After all, where

would you go to find a 'representative' sample? The street? And miss all those working, housebound and driving cars? Door-to-door? And miss all those out working, shopping, visiting, clubbing, wining and dining? And would you go out during the day, or at night? This is why reputable surveys are carried out by stratified random sampling – dividing the population into several groups and sampling them in proportion to their part of the whole. Even then, the accuracy depends on who goes out and finds their quota of, say, 25–40-year-old women with a certain income. The truth is that any method has problems of bias, conscious or otherwise.

Who's not in the sample?

This is often as important as who is in it. Darrell Huff quotes the case of a large survey carried out many years ago into the salaries of the Yale class of '24. The result was \$25,111, the respondents being contacted via industry yearbooks, etc. In other words, they were senior executives and company directors. Yale graduates of that year who were unsuccessful would not have been easy to trace, and, if they had been, would probably have refused to reply. If a survey is done by sending out questionnaires, ask what percentage did not reply? And why not?

Are the results for the whole sample or just those who respond?

A press release says that in a survey of business attitudes to interest rates, 80 per cent of firms said high interest rates was a problem. Oh really? Ask how many forms were sent out. Answer: 2,000. How many responded? Answer: 160 – 80 per cent of which found interest rates a problem. In honest words, then: 'A survey of business attitudes to interest rates, found that 80 per cent of those responding saw them as a problem, but 93 per cent of the 2,000 businesses surveyed did not reply.'

Is self-reporting involved?

If it is, be alert, especially if the survey requires people to report on their behaviour rather than their beliefs. Is there a stigma attached to one answer rather than to another? In a survey on personal hygiene or honesty, for instance, people are unlikely to tell a stranger about their unpleasant or illegal little ways. The most blatant example of this is sex surveys. These are doomed from the start to be answered disproportionately by exhibitionists or boasters. The prim, less adventurous and private are far less liable to take part.

Are the questions fair?

In surveys which seem reputable yet produce startling results, ask to see the questions. Blatantly leading ones ('The colour red has been linked to

low income groups. Now can you tell me what is your favourite colour?') are rare. More common are a series of questions which gradually lead the unwitting respondent in a particular direction. For instance, in an article by Laurie Ouellette and Harry Goldstein for the Utne (Understanding the Next Evolution) Reader Online, they wrote:

When the Yankelovich polling organization asked respondents the question 'Should laws be passed to eliminate all possibilities of special interests giving huge sums of money to candidates?' 80 per cent of the sample said yes, and 17 per cent said no. But when the same organization reposed the question as 'Should laws be passed to prohibit interest groups from contributing to campaigns, or do groups have the right to contribute to the candidate they support?' 40 per cent said yes while 55 per cent said no.

Do the people being surveyed have the knowledge to reach a valid verdict?

This may seem like a highly elitist question to ask, and for any general opinion survey, it would be offensively pompous. But what about surveys that require, as many do, some knowledge of the subject? Consider, for instance, a school science project carried out by Nathan Zohner of Eagle Rock Junior High, Idaho in 1996. He approached people and explained to them the scientifically proven dangers of dihydrogen monoxide (can cause excessive sweating and vomiting; is a major component of acid rain; causes severe burns when in a gas form; can be fatal if inhaled; and has been found in cancerous tumours). He then asked 50 pupils at the Greater Idaho Falls Science Fair if they would favour a ban on dihydrogen monoxide, and 86 per cent said yes, 12 per cent were unsure, and only one person said no. He knew that dihydrogen monoxide is ... water.

How accurate are respondents' answers?

People, especially in surveys of attitudes and behaviour, tend to give the answers which they think will make others regard them more favourably. Hence the famous survey conducted for the *News of the World* when people were asked which features they liked and disliked. Most said they liked the leading article and the religious feature; few confessed to reading the sex crime reports. These were dropped and circulation plummeted.

Opinion polls

Reputable polling organisations are rarely guilty of the more spectacular flaws described above. As long as their results are accurately reported (and that means giving the margin of error somewhere in the story) and

some context is given, there is little chance of badly misleading readers. After all, it is up to them what faith they put in polls.

The danger with opinion polls comes with interpretation. Several key points should be borne in mind:

The trend of several polls is more important than a single poll

A lone poll can be a rogue and no great reliance should be placed on it. But if the polls mostly head in the same direction, there is a high chance that the trend indicated is accurate.

Watch the sample carefully

With political polls, especially as election day draws near, the media often commissions polls at short notice. These are likely to have small samples and be less reliable.

Watch the margin of error if comparing polls

The classic error in reporting polls is to compare two polls and see significance where there is none. If the first poll finds support for the government of 45 per cent and that for the opposition of 42 per cent, and a second poll then finds them both at 44 per cent, has the government lost support? It all depends on the margin of error. If it is 3 per cent in the first poll, government support was then in the range of 42–48 per cent and the opposition's between 39 and 45 per cent. If the second poll also has a margin of 3 per cent, then support for both government and opposition is 41–47 per cent. The second poll's result is well within the margin of error of the first and so nothing, statistically, has happened. You would need further polls tracking movement out of the original ranges to draw conclusions.

Correlation

One of the most dangerous words in journalism is 'link'. A great many misleading stories appear because those with an axe to grind announce a relationship between two things and journalists fail to ask enough questions. The result is confusion between a statistical correlation and a causal relationship. They are not the same thing. A correlation could be, and probably is, a coincidence. A link is when one thing causes, or helps to cause, the other.

An association between two factors is not proof of a relationship. There may be, for instance, a close correlation between the spending power of Catholic priests and sales of condoms, but there is not a link.

All kinds of more plausible (but equally false) economic links are peddled to journalists when the most likely explanation is simply that, in a period of growth, all kinds of data will rise and many unrelated ones will rise at precisely the same rate. Chance is the best explanation here, as it is for so many correlations.

Health stories

The stories where 'links' are most freely asserted are those dealing with health. You are told, for example, that there is a clear correlation between wine drinking in moderation and lower cancer risk. Before reporting a link, stop and think. It may well be that those who drink wine in moderation do something else that lowers their cancer risk – they are wealthier, in better health, have more check-ups, smoke less, can relieve stress more easily, etc. This is a classic example of where a little intelligent, balanced context can put a 'link' into context. Then there are stories which compare disease rates between countries. These often produce results which are surprising. Cancer rates in developed countries, for instance, are normally well above those for significantly less wealthy countries. Does this mean the poorer nations have some dietary or other secret to tell? It's possible; but, on the other hand, the explanation could just be that, since cancer is mainly a disease of middle and late age, countries with wealthier populations live long enough to get more cancers.

In reporting health or safety stories, remember that death statistics are always more reliable than injury data. There is a legal obligation for cause of death to be recorded, so such figures are far less prone to misdiagnosis. They are also totally free of self-diagnosis, which, in the case of injuries, can be distorted by a financial incentive to exaggerate e.g. insurance or compensation claims.

Cluster studies

Another type of story where a superficially convincing 'link' catches the unwary are studies of illnesses in areas near power lines, toxic-waste dumps, farms where pesticides have been used, etc. Such studies are normally carried out by campaigners or lawyers acting for victims and have been invaluable in raising the alarm on environmental threats. But false 'links' are often obtained because researchers, anxious to prove a case, start cherry-picking the data, selecting what suits them and moving the boundaries of the area in and out to produce the desired results. Always check the boundaries of such studies, for they often make no sense. The same trickery can apply to counter-studies produced by authorities trying to deny the existence of a problem.

Projections

Sources frequently exaggerate projections. The most common method is to take the highest possible growth rate and apply it way beyond the time when early rises (necessarily high in percentage terms) would fall away. The following is another abuse.

'We are losing £7 million a month'

Firms often make such a statement during a strike. Question how they arrived at this sum. More often than not it is calculated by taking the year's most productive day, multiplying by 365, and then adding on estimates for all other kinds of losses – increased insurance premiums, cost of customers' alternatives, etc. Respond by asking first what the turnover was last year and then why the firm's estimated losses per month seem to result in a turnover several times what was actually achieved.

Real versus apparent rise

Another source of deception, since increasing reports may not mean an actual rise. There may have been a sharp rise in awareness, the introduction of compulsory reporting or a new incentive to report. All these factors are important to context and are especially vital when a type of behaviour, usually a crime, becomes news flavour of the month. One of the first things that happens then is that the phenomenon acquires a catchy name. 'Road rage' is a good example. Suddenly instances seem to be everywhere. But when subjected to statistical test, the 'new rampant' phenomenon is rarely as 'new' or 'rampant' as the coverage indicates.

Has the definition of the survey subject changed?

A huge growth in nursery schools, for example, can be produced if what were formerly defined as 'playgroups' are now termed 'nursery schools'. To conclude from this that there had been an explosion in schooling for the under-5s would be wrong.

Reality is more interesting than hype or myth

First, because it is real. Second, because it can often surprise. In countries that can have bad winter weather a ritual story is the spate of road accidents caused by sudden snowfall. But if you check with those who keep such data then you find there are far more crashes on clear, sunny days – probably twice the rate as on snowy days. In good weather a lot more people are out on the roads, while, on bad days, only those who

must travel (including a high proportion of those who drive for a living) are out. Hence there are fewer accidents. 'Snowfall saves lives' – not quite as sensational a story as 'Blizzard kills 13', but actually more accurate and original. And statistics can be an antidote to scare stories that do the rounds and which rarely get tested against real life. A hardy annual is the one around Halloween that warns of the terrible dangers faced by children going trick or treating being murdered by poisoned candy and fruit given them by homicidal householders. Yet a Californian study found that since 1958 only three children have died in such circumstances. One ate his uncle's heroin, another died of a seizure, and a third was deliberately poisoned by his father. Reality, again, proving less scary, and certainly more interesting, than widespread beliefs.

And finally, three thoughts.

- Remember that too many statistics can kill the flow of even the best story. Use what you must and put the rest in a box, graphic, sidebar or table.
- Use one of the many good statistical calculations pages available online. One of the best is: <http://members.aol.com/johnp71/javastat.html>
- Why not run your data – especially some of the more complex calculations – past a friendly local university statistician before publishing them?

A thousand stories which the ignorant tell, and believe, die away at once when the computist has them in his gripe.

Samuel Johnson

Investigative Reporting

The image of the reporter as a nicotine-stained Quixote, slugging back Scotch while skewering City Hall with an exposé ripped out of the typewriter on the crack of deadline persists despite munificent evidence to the contrary.

Paul Grey

There is a school of journalistic thought that curls its lip and sneers at the very mention of the words 'investigative reporting'. It argues that, since all reporting is investigative, the phrase is meaningless. If only that were true. But some reporting is investigative only in the most basic sense. It is the journalistic equivalent of the single-cell creature and bears about as much resemblance to the subject of this chapter as amoebae do to humans.

What is investigative reporting?

Investigative reporting is substantially different from other kinds and there are four features that distinguish it.

Original research

Investigative reporting is not a summary or piecing together of others' findings and data, but original research carried out by journalists often using the rawest of material. It can be extensive interviewing, or matching and comparing facts and figures and discovering previously unknown patterns and connections.

The subject involves wrongdoing or negligence for which there is no published evidence

Often you have suspicions of wrongdoing or negligence but have no proof and neither does anyone else. You need to accumulate evidence and this

requires far more time and prolonged effort than ordinary reporting. It may also involve more than one reporter.

Someone is trying to keep the information secret

This is true of a lot of reporting, but in day-to-day work, there is often a point at which you have to stop and report what you have found or not found. Investigative reporting starts at the point where the day-to-day work stops. It does not accept the secrecy and the refusal of officials to give the information. It finds out for itself.

The stakes are high

The kudos and pride you get when the story works out can be considerable, but so can the amount of dirt hitting the fan when it all goes wrong. Consider the *Cincinnati Enquirer's* experiences in 1998. In May of that year they published a front page story and an 18-page section devoted to a year-long investigation into the international banana firm, Chiquita Brands. Headlined 'Chiquita Secrets Revealed', the paper alleged that Chiquita secretly controlled dozens of supposedly independent banana firms, that it and its subsidiaries used pesticides that threatened the health of workers and nearby residents, that employees engaged in bribery in Colombia and that its ships had smuggled cocaine into Europe.

All, however, was not quite as it seemed. In the issue of 28 June, the paper carried a six-column apology to the company across the top of the front page, totally repudiating the investigation. It fired its lead investigative reporter and it agreed to pay Chiquita no less than \$10 million.

The problem was not the veracity (or otherwise) of the evidence, but the methods employed to obtain it. These involved access to internal voicemail messages of the company and the issue was how this access was obtained. The company alleged that the reporter posed questions and then tapped into their mailboxes to eavesdrop on their internal discussion on the issues the reporter had raised. The paper, in making the apology and settlement, appeared to accept the thrust of these allegations. In a published statement, the paper said that the reporter had misled them over the source of the voicemail messages. It was never clear, however, if there was any substance to the published stories.

The loss of credibility, plus the \$10 million, made this a very costly investigation. Fortunately, for every episode like this, there are many more which were rewarding. They range from Nellie Bly's exposure of appalling conditions inside asylums for *New York World*, W.T. Stead's exposure of child prostitution in the *Pall Mall Gazette*; and the unmasking of the violently racist Ku Klux Klan by Roland Thomas in the *New York World*; to the uncovering by Seymour Hersch of the My Lai massacre in 1968; the *Sunday Times'* campaign for the limbless victims of the drug thalidomide;

and Carl Bernstein and Bob Woodward's Watergate investigation in the *Washington Post*. They also include many more localised stories, which exposed neglect and so changed lives for the better. A classic case is the *Alabama Journal's* investigation into the state's infant mortality record in 1987 – at 13 deaths per 1,000, it was the worst of any state in the union. The paper ran a 20-part series which led to the State Medicaid agency quadrupling funding for prenatal programmes and a determined drive to bring better health care to poor mothers. By 1994 Alabama's infant mortality rate had shrunk by 20 per cent. By the end of the century, there were nearly 1,000 children who owed their very existence to this series. It's difficult to imagine more productive reporting than that.

Finally, what is at stake can even include your personal safety. In countries where organised crime is widespread, investigative reporting is a potentially lethal profession. In Russia, the *Moskovski Komsollets* reporter, Dimitri Kholodov, was investigating army corruption. An anonymous source rang him one day in the autumn of 1994 and said that a bag of documents had been left for him at Kazan Station. Kholodov collected them and took the bag back to his office. When he opened it, the bag exploded, killing him. And in the summer of 1992, Peruvian reporter Adolfo Isuiza Urquía was investigating drug dealing for the daily *La Republica*. In August he named a major drug trafficker who was being protected by the armed forces. 'The army does not want to fight terrorism because it lives off drug trafficking', he wrote. A few days later, on 27 August, his body was found in the River Huallaga. He had been tortured and stabbed. Anyone considering digging around in these areas should carefully weigh any risk involved. Dead reporters can't report.

Productive areas to investigate

Investigative reporting starts with a sniff of a story, or the hunch that in some subject lies the seeds of one. The main thing at this stage is to think carefully about the 'best case' outcome and consider whether the story will be worth the effort and time required. If it is not going to be page one, forget it. Specialised investigative units in particular can easily get obsessed with a story that is far too narrow to be of importance to general readers. Submit your planned inquiry to the headline test: if the anticipated outcome does not make a startling headline, then you are probably going to waste your time.

Potentially, good investigations can be found in almost any area of public life. Two broad categories, however, are particularly fruitful: activities and organisations that do their work in remote places or otherwise away from the public gaze; and people and institutions that suddenly get thrust into the spotlight, appear to have 'come from nowhere' and around which a mythology has speedily grown. They are people and institutions which

seem to have no background. But they will, and in that background there is almost sure to be a good story.

Companies and financial institutions, especially of the 'get rich quick' variety, are a highly fertile ground for some journalistic digging. Sink your spade into a newfangled and highly publicised investment scheme and you can bet your salary that there will be dirt there. The Romanian pyramid funds of the early 1990s are a prime case of a missed opportunity. One that was not missed, and a classic example of this type of reporting, was the story of Charles Ponzi, or, as he liked to call himself, The Great Ponzi.

A lot of people believed him. More than 40,000 Americans plunged their savings into his scheme, lured in by his pledge to pay them, within 90 days, \$2.50 for every \$1 invested. Despite warnings from financial experts that his sums did not add up, Ponzi was, at one point in 1920, raking in \$200,000 a day. In 18 months, he collected more than \$15 million.

It was all based on currency exchange rates. His company would take your investment, and send it overseas, where his agents would buy International Postal Union reply coupons at depressed rates and then sell them in other foreign outposts at a higher rate. That was Ponzi's story and thousands joined the rush to have their investment earn money faster than they could. The reality, of course, was that he was paying new customers with the money from old ones. In the whole life of his company it traded in foreign currency with only \$30 of the original \$15 million.

But the flood of people who crowded the sidewalks outside his offices, queuing for the chance to invest everything they had, did not know that. It seemed, in the words of one of these hopefuls, that he 'had discovered money itself'. He hadn't, of course. He had merely found that if you offer people a big enough return on their money, and wave a few libel writs around, you can postpone the day of reckoning for a long time.

But not indefinitely; for other things were being discovered. Reporters from the *Boston Post* newspaper were discovering his past. 'The Great Ponzi', it turned out, was better known to the authorities in Canada as prisoner no. 5247, the number he bore while jailed for forgery. He had also done time in Atlanta for smuggling aliens. The *Post* ran the story, Ponzi's company duly collapsed, and he went to jail for four years.

Investigative reporting skills

Investigative reporting can be undertaken by anyone with the determination both to see the job through and to handle all the inevitable frustrations. It requires no greater skills than those demanded by general reporting. But there are a few things that make the job easier and which will make you more efficient at it.

Knowledge of the law on public access to information

What is the law on this in your country? Do you know what public records and documents you are entitled to see? This is vital. Some investigations have resulted from secret documents being passed to journalists, but many more have resulted from reporters discovering that certain records or registers are kept and that they have a right to consult them. Most bureaucracies do not exactly advertise the existence of such information and they erect all kinds of barriers to prevent people consulting them – by making them available only at certain times, or by storing them in out of the way places.

A reporter who once worked with me in London discovered in the small print of a government report the existence of a certain register. It listed all the rights of access to private estates that had been granted in return for the wealthy owners of the estates receiving tax concessions. Neither the officials (because they had given tax concessions) nor the owners (because they did not want members of the public tramping all over their estates) were keen to have this register publicised.

Once the reporter learnt of its existence and established that we had the right to examine it, she went through the lengthy process involved and consulted it. She was then able not only to report what access could be gained to these estates, but also to investigate the deals done between the owners and the government. None of this would have been possible were it not for her finding out about the register in the first place and insisting on seeing it.

This was in Britain, which has a tradition of secrecy about official documents. It is not exactly alone in this, but there are other countries that now have freedom of information laws which have opened up a vast amount of records to citizens. Very few ordinary people will know of these records and even fewer will consult them. All the more reason for journalists to make it their business to know what is kept and what can be seen.

In the United States, the 1966 Freedom of Information Act, strengthened in 1971, has opened up all kinds of documents to journalists. As a result of their use in investigations, all manner of scandals have been uncovered by the press:

- Unreported accidents at nuclear sites.
- X-ray machines at cancer-detection centres which were emitting 25–30 times the correct level of radiation (within months of disclosure, all such centres in the United States had reduced amounts of radiation).
- Anaesthetic drugs routinely given during childbirth even though they could – and did – cause brain-damage to babies.

There was also the paper in Louisville, Kentucky which obtained federal inspection reports on nursing homes showing the abuse of residents. As a result, new state legislation was introduced, many homes were closed and the owners of several were charged with fraud.

There are many, many other cases that could be cited. They all show the value of journalists discovering what records are kept, examining them and using them in their investigations.

Knowledge of standard reference sources

In all but the most furtive of societies there is much more information available than the average journalist realises. A lot of this can be traced through standard, if not commonly available, reference sources: lists of official publications, reports from legislatures, lists of public bodies, company ownership reference books or registers of bodies receiving government funding. Any reporter intending to carry out investigative work should make it his or her business to know what information such reference sources hold.

Contacts

All reporters obviously need contacts, but investigative reporters more so. And they need a particular type of contact – not just those who can give them information or point them in the right direction on a specific story, but those who can be useful on a range of stories. People like lawyers, officials in telephone services, car registration centres and those who can give advice on, and access to, official records.

Computer literacy

This means not just the ability to search effectively online, but also the ability to use database software. Examples of the value of this in investigations now abound. One of the most instructive was that by the *Atlanta Journal-Constitution* in Georgia, which won a Pulitzer Prize in 1989 for a series analysing racial discrimination in bank lending.

This investigation, by Bill Dedman, repays study; not because its subject has any great global significance, but precisely because it hasn't. It is a piece of local city reporting, although a particularly fine example. It did not bring any governments down, reveal any criminal corruption or save any lives. To someone who is white and living a long way away from the United States, it might appear to be small beer compared to the problems that affect their country. But the *Journal-Constitution* series is worth looking at for its methods, organisation and attitudes. It is the story of a journalist determined to report a situation into print, rather than wish it there or just repeat the hearsay that was coming his way.

The investigation started with an off-hand remark by a white housing developer. He said he was having trouble building houses in the black areas of South Atlanta because banks would not lend money there (something that would be illegal, if done for discriminatory reasons). He added that he had been told that loans were hard to come by even in affluent black areas. It is the kind of remark that reporters hear every day – general, unsubstantiated and seemingly impossible to prove. But Dedman's curiosity had been aroused. He wanted to see if the charge could be substantiated.

First he talked to some academics who worked in this field, and they told him that banks and savings and loan companies must file to the government the location of every home loan, by amount and census tract. As Dedman later wrote: 'All we at the paper did, to put it simply, was to cross-index the federal computer tapes with a federal census tape, looking especially at comparable black and white neighborhoods.' This was easier said than done. The first three days were devoted entirely to putting spaces between the numbers on the computer so they could be read properly.

For the next five months, Dedman checked loans made by every bank and savings association in Atlanta over a five-year period – a total of 109,000 loans. There was also another study looking at real estate records. But the effort was worth it. Dedman discovered that banks and other institutions were making five times as many loans in white areas as in black areas. By examining bank policies and practices, he also found that they were not looking for business in black areas and were otherwise discouraging black borrowers. Blacks, in turn, could only resort to unregulated mortgage companies and loan sharks. As he says, 'Only then did I turn to anecdote.' He collected personal experiences, which gave his series real lives, and showed how the policies of banks affected people.

When he went to the banks, they were predictably reluctant to talk. One replied to Dedman's request for information thus: 'Some of the material you have asked for does not exist. Other parts of the material exist but are confidential. The rest of the material exists and is not confidential but is irrelevant to your subject matter.' It is the unmistakable voice of someone with something to hide. Another bank tried sneakily to combine an appeal to local patriotism with a thinly-disguised plea to the paper's publisher, Jay Smith, to kill the story. He wrote: 'I'm sure that Jay Smith would recognize any article alleging racial discrimination by Atlanta financial institutions as another unmerited potshot at our great city ...'. And he sent a copy of the letter to Smith.

Finally, when Dedman had enough material for a series (which he would call 'The Color of Money' after the Hollywood film), his editors came into the picture. As Dedman wrote later:

I think I know the key to the effectiveness of 'The Color of Money'. The editors took out what I thought were the good parts. When I wrote that Atlanta's banks were red-lining [a pejorative word for marking-off areas to be discriminated against], editor Bill Kovach marked through it. 'Just use the numbers,' he said, 'Let the facts speak for themselves.'

On Sunday 1 May, the series began with a story of several thousand words headlined 'Atlanta Blacks Losing In Home Loans Scramble'. It began:

Whites receive five times as many home loans from Atlanta's banks and savings and loans as blacks of the same income – and that gap has been widening each year, an *Atlanta Journal-Constitution* study of \$6.2 billion in lending shows. Race – not home value or household income – consistently determines the lending patterns of metro Atlanta's largest financial institutions, according to the study, which examined six years of lender reports to the federal government.

The story went on to contain the following: explanation and denial from bankers, details of the survey with further news points (including the fact that the only bank which specialised in lending to blacks had the lowest default rate in the whole country), explanation of the law relating to bank loans, etc. Elsewhere in that day's paper was a story about individual blacks who were well-qualified for a loan but had had trouble getting one. The rest of the series was as follows:

- *Monday 2 May*: Detailed story on bank policies, the history of discrimination by them, plus more case histories including the black Vietnam veteran who was refused a loan which would have cost him \$100 a month less than his rent. The article also detailed the process of home purchase and how it related to blacks.
- *Tuesday 3 May*: Detailed explanation of the law on banking and its regulation and practice over the whole country, plus the history of efforts by black groups to change Atlanta's banks' policies. There were also follow-up stories which established that discrimination was being practised nationally.

The results of Dedman's series were immediate. Nine days after it ended, Atlanta's nine largest banks began pouring \$77 million into low-interest loans into black areas. Some institutions also went positively into black areas looking for business, hiring black staff, advertising in black media and even taking their executives on a bus tour of the areas. Eleven months after the series was printed, the US Justice Department began

investigating 64 Atlanta financial institutions for possible breaches of the discrimination laws.

How to run investigative operations

The subjects for investigations come to papers in all kinds of ways: tips from contacts; by accident; a seemingly routine story that subsequent information indicates is far bigger; a reporter's own observations; a run-of-the-mill story which escalates bit by bit, or one where every question you ask throws up other, increasingly important, questions.

This was the case with perhaps the most famous journalistic investigation of all – Watergate. It began in June 1972 with a break-in at the Democratic Party's headquarters in the Watergate Building in Washington. It ended just over two years later with the resignation of the most powerful man on earth, President Richard Nixon. The role of the President and his staff in the original burglary and much else besides (phone-taps, slush-funds and, most important of all, the cover-up of these illegal activities) would never been known had it not been for investigative reporters. The two main ones were Carl Bernstein and Bob Woodward of the *Washington Post*.

When they started working on the story, in a mood of mutual distrust, it was a routine crime story. Five men had been caught breaking into the Democrat's HQ to plant a listening device. Woodward went to the courtroom the following day and noticed a prominent lawyer taking great interest in the case. What was he doing there? Woodward also learnt at the court that several of the men had worked for the Central Intelligence Agency. They were also carrying large amounts of cash on them when arrested and two of them had notebooks, inside one of which was a telephone number for a man who worked at the White House.

From these slender – but promising – beginnings was launched a series of stories that were finally to prove the Nixon administration's complicity in a whole raft of illegal activities. Bernstein and Woodward were fêted, wrote a best-selling book and a Hollywood film was made of their investigation. But that was the final outcome. Before that were a thousand frustrations, abuse from Nixon supporters and officials who feared and suspected their reporting, wasted days, weeks and months pursuing false leads, mistakes (some of which got into print), countless hours searching records for that one vital piece of information, self-doubts, criticism and envy of colleagues, and late nights, all nights and weekends of their own time spent on the case.

There are valuable lessons to be learnt from their experiences. Their book, *All The President's Men*, is probably the best detailed description of reporting in the English language. It tells the story of two reporters edging slowly, and not always in a straight line, towards the truth by painstaking

research and a healthy obsession with accuracy. The following guidelines on investigative reporting are based on their work, the study of other cases and my own limited experiences.

Find and file every document

The moral of every investigation ever mounted is to lay your hands on every document that you can and throw nothing away. You never know when documents, notes, reports – indeed anything you accumulate – will be useful. Months after you acquire that apparently innocuous report, something might give it sudden significance. Bernstein and Woodward, the Watergate reporters, filled four filing cabinets after just a few months.

Write up every interview and file the notes

This is especially important if there is more than one of you working on an investigation or if it is a lengthy one. It pays to swap notes of interviews to see if you have missed something of significance. Typed (and filed) notes are also a lot easier and quicker to consult. This practice also allows executives to participate better in the discussions of the story.

Be persistent

Read the story of any investigation and the persistence of the reporters is the thing that strikes you. During the Watergate investigation Woodward and Bernstein often spent days going through records, sat at their desks making phone calls all weekend, or waited outside lawyers' offices all day for the chance to see a perhaps vital source. On one occasion they obtained a list of the hundred-or-so people who worked at the Committee to Re-elect the President, the seat of much of the wrong-doing. Since they obviously could not visit these people at their offices, they spent many weeks calling on them at their homes after their normal day's work at the paper.

Re-interview 'old sources'

As long as an investigation is in progress, there is no such thing as an 'old source'. People working in the area you are investigating will often remember things they should have told you, receive new information, or are able to make sense of new information you get. Each one of these is reason enough to call them regularly. Woodward and Bernstein each kept a separate master list of phone numbers of contacts. This eventually amounted to several hundred names. They were each called at least twice a week, every week, for well over a year. As they wrote in their subsequent

book: 'Just the fact that a certain source would not come to the phone or return calls often signalled something significant.'

Cultivate sources who really are in the know

During the Watergate investigation, Woodward contacted a man who worked at a senior level in the government to ask him if any word of the wrong-doing had reached him. It had. He knew an enormous amount and clearly regarded it as his duty to assist the exposure of the conspiracy. However, he had the bureaucrat's natural suspicion of the press and was also concerned lest stories based on knowledge only he and few others had was used without confirmation by other sources.

He therefore agreed to help Woodward, but only on certain conditions: he would only guide the reporter in the right direction, anything he told them would have to be corroborated by another source. Meetings between him and Woodward took place in underground car parks, late at night and were only arranged at his behest. Such was the quality of his assistance that Woodward agreed to these conditions.

The source revealed his identity to no one, and an executive at the *Washington Post* christened him 'Deep Throat' after the title of a fashionable pornographic movie which featured a woman whose speciality was oral sex. Deep Throat's identity still remains a mystery to all but Woodward.

It is an opportunity few reporters experience, to know and have the co-operation of such a well-placed source as Deep Throat. But the moral of Woodward's dealings with him is that if such a source sets certain rules, you should stick by them. That does not mean you should accept everything they say; Woodward argued with his contact frequently. But whatever is finally agreed should be adhered to.

Executive support

The news editor/editor must commit staff and other resources to the project. The editor should be prepared for the project to take a long time and possibly result in no story. Publishing something just because a lot of time has been spent on it is a sure way to have a disaster on your hands. When it is finally printed, the story should be watertight.

The executives and reporters will also have to make a decision early on about whether the investigation will be a series of stories published as they are written, or a 'big hit' operation printed only when all the research is complete. If it is the latter, a deadline should be set. It is easy for investigations to drag on for months, with the reporters always claiming that they need 'just one more week' to finish their research. You should also remember that interim stories can sometimes encourage people to come forward with more, or even the vital piece of, information.

Yet whichever way it is being published, the investigative operation should be closely monitored by an executive. A key part of this role is to ask questions continuously of the reporters about the story. Such executives should act as devil's advocates and also keep going over evidence with reporters. They should be the fresh mind on the case.

Going undercover

Most of the time there is a better way of collecting information than going undercover. But occasionally, very occasionally, it might be the only way to write the story. Investigating the situation inside some 'closed' world, like a secretive group, organisation or company is the most usual pretext, and there may be others. But the story had better be worth it, because it is very time-consuming and comes with a lot of risks, the least of which is the embarrassment if you are discovered.

The other hazards will take a lot more living down. First, undercover work always involves some deception, so the wrong-doing you are reporting needs to be serious enough to justify that dishonesty. Second, the physical dangers in such a situation can be immense and last long after you have surfaced to write your story. Third, if you are investigating criminal activities undercover you may well be drawn into participating, which makes your actions even harder, if not impossible, to defend.

There is an additional risk when you are investigating an illegal trade and posing as a buyer or seller, in other words as an *agent provocateur*. Apart from the dubious morality of that, you also become part of the story and so change it. This, to me, means that you have already passed beyond anything recognisable as journalism. The most flagrant case of this was in 1994 when stories began to emerge of weapons-grade plutonium being offered for sale on the German black market. A number of reporters thought they would make a name for themselves by probing this trade. Some posed as sellers, others as buyers with unlimited money. As if this was not bad enough, some journalists working undercover as 'buyers' then ran into others impersonating sellers. None discovered the true identity of the other and so their published stories were not of the 'trade in death' as they claimed, but of two over-enthusiastic journalists fooling each other – and themselves.

Yet there are instances of undercover investigations producing memorably good stories. At the end of the nineteenth century, *New York World* reporter Nellie Bly (real name Elizabeth Cochran) feigned insanity to get inside the asylum at Blackwell's Island and wrote a shocking exposé. Her findings were later published in her book *Ten days in a Madhouse*. The reward from her publisher, Joseph Pulitzer, was an assignment to beat the round-the-world journey time of 80 days set by the fictitious Phileas Fogg in Jules Verne's novel *Around The World In Eighty Days*. She did it in 72 days 6 hours 11 minutes and 14 seconds.

Less well-rewarded was the editor of the *Pall Mall Gazette*, W.T. Stead. He exposed child prostitution in Victorian London by 'buying' a 13-year-old girl from her mother and, under the strictest of supervision, spent enough time alone with her to prove that she could have been put to almost any immoral purpose. His campaign to change the law on child prostitution had the support of many leading figures, including bishops. They, however, could not prevent Stead subsequently being prosecuted. The authorities jailed him for three months on a technicality for buying the girl at the centre of his story. This strange, red-bearded and eccentric man (he sometimes caught mice, fried them and ate them on toast) went down with the *Titanic* in 1912.

Since then, journalists have gone undercover mainly to expose the treatment – or maltreatment – of various 'victims' of society like the homeless, mentally ill or drug addicts. This involves a degree of acting and perhaps the adoption of disguise. The master of this genre is a German called Gunter Wallraff. His aim is to enter worlds forbidden to a writer. He uses false papers, an invented life-story, new clothes, new spectacles or contact lenses, ways of disguising his hair and teeth. For, as he says, his task is 'to deceive in order not to be deceived'.

He styles himself 'the undesirable journalist' and, as far as his targets are concerned, not without good reason. He has played the part of an informer for the security services and the political police, tested Catholic theology and morality by posing as a man who had been making napalm bombs, led the life of a homeless man in a hostel, an alcoholic in a mental hospital, and impersonated a ministry adviser to find out how armed units are available to German industry for factory protection. As a 'German financier of the extreme Right' he discovered plans for a *coup* in Portugal, and, as a 'tabloid reporter', worked on and exposed the methods of the mass-market *Bild*.

Scrupulous about notes and records, he tapes everything and photocopies all documents that he wishes to quote. As he says: 'I decided to conspire in order to take a look over the wall of camouflage, denials and lies. The method I adopted was only slightly illegal by comparison with the illegal deceptions and manoeuvres which I unmasked.'

Most of his work is published, not in newspapers, but in magazines, booklets or books. Wallraff's investigations consume a great deal of time, more time, perhaps, than many newspapers would grant a staff reporter. But his results are impressive and his methods worthy of more attention than they get.

A newspaper can send more souls to heaven, and save more from Hell, than all the churches or chapels in New York.

James Gordon Bennett

How To Cover Major Incidents

Have you noticed that life, real honest-to-goodness life, with murders and catastrophes and fabulous inheritances, happens almost exclusively in the newspapers?

Jean Anouilh
The Rehearsal, 1950

There is an unwritten rule in journalism that the stronger the story, the easier it is to write. There is, after all, no need to spend hours chewing the end of a pencil wondering what the angle for the intro should be when the story is that 68 have died in a disco fire. But while the writing of major incident stories is usually straightforward, researching them to the point where a clear story has emerged is often difficult.

Major incidents are, by their very nature, chaotic. Even to the authorities it is often unclear, for many hours or even days, exactly what has happened. Disasters can happen in inaccessible places, in countries where communications are poor, or where authorities are badly organised and secretive. They can happen at night, or be the kind of natural disaster, like Hurricane Mitch in central America in 1998, where it takes some days for the full enormity to be appreciated. The death toll, which for our professionally ghoulish purposes is often the key indicator of how big the story is, can often be slow to emerge. First reports of it can be particularly misleading.

Then there are the witnesses, invariably traumatised and confused, and, as a result, sometimes giving highly inaccurate testimony. The authorities, too, can often mislead; most commonly because their first priority is saving lives and not assisting journalists; or because they have an interest in promoting one aspect of the incident, or disguising another. In both the Hillsborough stadium disaster of 1989 (when 94 soccer fans died in a crush) and the Dunblane massacre (when a lone gunman killed 16 pupils and three teachers at a Scottish school) the police

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11 Investigative reporting

The times they are a-changin'?

Nick Nuttall

Investigative journalism enjoys a high reputation with the public. Its practitioners, along with the war correspondent, have become mythologised as titans of their trade – fearless, glamorous, noble, often reckless, always on the side of the ‘people’. Strange, then, that at the beginning of the twenty-first century this reputation is contested territory – no one is really sure whether investigative reporting is in a healthy state or verging on extinction.

The clamour for a return to ‘traditional’ journalistic standards in the aftermath of the Gilligan ‘affair’ which exploded after the BBC *Today* reporter quoted an anonymous source on 29 May 2003 that a ‘senior British official’ had told him the British government’s dossier on Iraq had been ‘transformed in the week before it was published to make it sexier’ and build a stronger case for war. The anonymous source turned out to be Dr David Kelly who, having been ‘outed’ by the government, went on to commit suicide. And Lord Hutton’s subsequent report is considered by many journalists to be a thinly disguised attempt to muzzle the investigative impulse and return news agendas once more to the safe and non-confrontational. To such journalists these recent upheavals are just another example of a pernicious trend. Phillip Knightley, one of the world’s most distinguished investigative journalists, noted one aspect of this trend in his February 2003 address on ‘The Death of Investigative Journalism and Who Killed It’ (2003: 7):

All over the Western world, journalists, who should have been up in arms about the downgrading of foreign news, were bought off. Many became highly-paid columnists, celebrities in their own right, pushing their opinions rather than gathering facts. Or writers about lifestyle, relationships, gossip, travel, beauty, fashion, gardening and do-it-yourself which, although sometimes interesting in themselves, can hardly compare in importance with examining the human condition at the beginning of the 21st century, which is what serious journalists try to do.

And he concluded with some consternation: ‘Investigative journalism is not dead yet, just moribund.’

The ‘healthy state’ exponents on the other hand offer a more sanguine critique of its status, although even here a note of ambivalence often creeps in. Deborah Chambers declares: ‘Investigative journalism has been flourishing in the last three

decades of the twentieth century’ (De Burgh 2000: 89) whilst acknowledging also that ‘there is evidence to suggest that the conditions that led to this boom are now changing’ (2000: 104). The great investigative coups of the postwar years and particularly those carried out by the *Sunday Times*’s Insight team under the editorships of Denis Hamilton and Harold Evans, are usually cited in evidence:

- the Profumo affair (1963) which destroyed the career of a Cabinet minister and arguably helped bring down the Conservative government the following year (Knightley and Kennedy 1987)
- the Poulson scandal (1970) where politicians were bribed by architect John Poulson to award him lucrative building contracts. Paul Foot used *Private Eye* to highlight the work of local journalist Ray Fitzwalter in uncovering the scandal. It resulted in Poulson’s bankruptcy and imprisonment and the resignation of the then Home Secretary Reginald Maudling (Tomkinson 1973; Fitzwalter and Taylor 1981)
- the Insight campaign begun in 1972 on behalf of the Thalidomide children. Distillers, the giant drinks conglomerate, made the drug Thalidomide under licence and marketed it as a safe anti-morning-sickness pill for pregnant women. Yet the drug wasn’t safe as Phillip Knightley, one of the team assigned to the story, recalled in his autobiography, *A Hack’s Progress*: ‘Thalidomide crossed the placental barrier and with devilish precision sabotaged the developing limb buds of the foetus, so that children were born with hands emerging direct from their shoulders, and feet emerging direct from their hips and, in a few horrific cases, with both abnormalities’ (1997: 156). Ultimately, Distillers compensated affected children to the tune of £28.4 million
- the DC-10 Paris air crash (1974) which killed 346 passengers and crew. As Harold Evans noted in *Good Times, Bad Times*: ‘They died violently because the DC-10 had a lie in it’ (1983: 27). The ‘lie’ was that a faulty door mechanism had not been modified adequately and the door blew off at altitude. Planemaker McDonnell Douglas eventually paid \$62 million in compensation
- the *Guardian*’s reporting of the ‘Cash for Questions’ scandal (1994), in which MPs were paid £2,000 a time to ask questions in Parliament, effectively finishing the careers of two MPs and arguably tolling the death-knell of the Major government (De Burgh 2000: 56)
- and the long investigation by the *Guardian* into the expenses claims of government minister Jonathan Aitken (1994–9) which resulted in his eventual disgrace and imprisonment on perjury charges (Leigh and Vulliamy 1997; Spark 1999: 107–13)

There is much to be proud of in this long tradition, but the changing nature of modern journalism, its fragmentation, its cost-consciousness, its relentless pursuit of ‘entertainment’, is probably to blame for the more intimate ambitions of the modern investigative reporter. As Tessa Mayes, an award-winning journalist with extensive experience in both print and broadcast media, noted in a talk to Lincoln University students in November 2003:

Investigative journalism today is more concerned with a human interest approach to stories. When I worked as an undercover reporter in brothels on a story about eastern Europe, ... girls who were illegal immigrants and were forced to work as

prostitutes, the programme-makers wanted to concentrate on my emotions as a reporter and the women's feelings at the expense of analysing the subject more broadly.

What's it all about, Alfie?

Alfred Harmsworth, inventor of the modern press when he published the *Daily Mail* in 1896 and then the *Daily Mirror* in 1903, was quite clear about investigative journalism. He defined it as his 'talking points', stories designed to reflect readers' concerns on a day-to-day basis and thus not driven by or dependent on routine news agendas. Rather than just responding to events, the investigative journalist hijacks the news agenda on behalf of his or her readers. 'Cash for Questions' had nothing to do with the news agenda of the day until the *Guardian* broke the story, but it's generally accepted that this story, along with the 'Arms to Iraq' affair (De Burgh 2000: 292–8) and the Jonathan Aitken scandal were all significant in the defeat of John Major's government in 1997.

Naturally enough the power wielded by such journalism regularly causes alarm among the wider political and judicial classes. Lord Hutton, for example, is just the latest in a long line of judges who have excoriated the news media for failing to live up to some standard of probity probably more mythical than real. And the journalists' defence against all such charges has traditionally been the one-word battering ram – objectivity. Yet here again there are dissenting voices – from Martin Bell (1998) with his 'journalism of attachment', the idea that a journalist cannot remain neutral or objective when confronted by unspeakable evil, to the concerns of such eminent journalists as Paul Foot who was more interested in facts – unvarnished, unassailable, unalterable – rather than arcane discussion on the objectivity/subjectivity conundrum (De Burgh 2000: 77). Yet even facts, in the hands of a skilled practitioner, can tell a story in different ways merely by their selection or omission or by the context in which they are presented.

Despite these issues there is still a need to define the genre, at least from a vocational perspective, and to offer a more robust and forensic definition than Alfred Harmsworth's a century ago. David Spark (1996: 6) suggests the following:

Investigative reporting seeks to gather facts which someone wants suppressed. It seeks not just the obvious informants who will be uncontroversial, or economical with the truth, but the less obvious who know about disturbing secrets and are angry or disturbed enough to divulge them.

Spark here touches on an important principle of investigative reporting: 'obvious informants' are not always the best or most reliable sources of information. John Pilger, too, alludes to this in his 2004 anthology of investigative journalism *Tell Me No Lies*. He recalls how Martha Gellhorn, doyenne of female war reporters, explained her technique to him: 'All I did was report from the ground up, not the other way round' (2004a: 1). In other words voices not normally heard are unearthed by intrepid journalists such as Gellhorn partly because such journalists understand that in any great organisation, whether public or private, you can probably learn more about what is really going on from the doorman than from the CEO.

What's the story?

It's important, then, to distinguish between true investigative journalism and the bogus stuff that often masquerades as the real thing. There's a lot of it about. But what is the difference? Usefully, the Press Complaints Commission (PCC) fleshes out a concept of 'The public interest' in its Code of Practice. This provides a series of ethical standards journalists are expected to follow, especially in stories concerning privacy, harassment, children, children in sex cases, hospitals, reporting of crime, and payment to criminals. However, there can be exceptions to these standards when the public interest is involved. Accordingly, the public interest includes, but is not confined to:

- detecting or exposing crime or serious impropriety
- protecting public health and safety
- preventing the public from being misled by an action or statement of an individual or organisation.

Furthermore the Code of Conduct of the National Union of Journalists (NUJ) states in Clause 5: 'A journalist shall obtain information, photographs and illustrations only by straightforward means. The use of other means can be justified only by over-riding consideration of the public interest.'

Editors and journalists alike have defended most of the following as legitimate examples of investigative journalism in 'the public interest'. Though typical of current offerings in the national press, few of them would pass the PCC and NUJ codes.

Sleazy does it

The story with no discernible public interest In 1994 the *News of the World* ran a story about the new Bishop of Durham being conditionally discharged by Hull magistrates for a gay sex act 26 years previously. The information was obtained from court records but it is questionable whether the public interest was served by running the story so long after the event.

Chequebook journalism

Kiss-and-tell Footballer Gary Flitcroft met 'C' in a public bar and had an affair with her in November 2001. 'C' sold her story to the *Sunday People*. Flitcroft (identified only as 'A' at this stage) obtained an injunction preventing Mirror Group Newspapers from publishing details of the affair. The Court of Appeal overturned this decision, ruling that a public figure had no right to block a newspaper's publication of 'kiss-and-tell' stories about his infidelities. The judge commented that Flitcroft was inevitably a figure in whom a section of the public and the media would be interested. Similarly, in April 2004, David Beckham was the target of a 'kiss-and-tell' exposé by Rebecca Loos, his former PA, who reputedly received £350,000 from the *News of the World* for her disclosure of their affair (Kelso 2004).

The sting

An individual is set up for a fall Sophie, Countess of Wessex, was invited to a meeting in February 2001 with an Arab she hoped to do business with. Unknown to her, the 'Arab' was *News of the World* reporter Mazher Mahmood, carrying a secret tape recorder and video camera. He recorded indiscreet comments about the royal family by the Countess, and 'Sophiegate' was born. Suggestions of her using her royal connections to further her PR business interests ultimately led to a change in royal protocol and the withdrawal of both the Earl and Countess from their private business interests. Once again there seems to be no public interest defence in this 'manufactured' story, just one example of many Mahmood stings. Others include his entrapment of various celebrities for 'supplying' drugs – *London's Burning* actor John Alford (1997), *Blue Peter* presenter Richard Bacon (1998) and Radio 2 DJ Johnnie Walker (1999).

Undercover agent

The journalist assumes a different identity to get the story In November 2003, *Mirror* reporter Ryan Parry used bogus references to get a job at Buckingham Palace as a footman. He was there during President Bush's visit and this exposed serious flaws in the royals' security arrangements. A few months previously Parry had infiltrated Wimbledon as a Securicor security guard, again using false references. Within two hours of starting work he was 'protecting' championship favourite Serena Williams. In both these cases there was a clear public interest in the information seeing the light of day.

Facts, facts, facts

The classic investigative story based on facts established by the journalist In October 2004, John Pilger exposed the fate of the islanders of Diego Garcia, a British colony in the Indian Ocean, midway between Africa and Asia, in a report for the *Express* (which accompanied an ITV investigative broadcast on the same theme) (2004c). In 1966, the islanders were forcibly shipped off to Mauritius to make way for an American military base. They have never been allowed to return. In 2000, the High Court ruled their expulsion illegal but the British government invoked a 'royal prerogative' decree banning the islanders from ever returning. Pilger, describing the British government's actions as a 'crime against humanity', used information from files found in the National Archives in Washington and the Public Record Office in London as well as interviews with the islanders. Investigative journalism as a genre requires no further justification.

Analysis of social surrogacy: THE ULTIMATE ASSIGNMENT?

Sunday Times, 8 July 2001

Career women 'rent' wombs to beat hassle of pregnancy

Tessa Mayes

A fertile 35-year-old business executive with three children hired another woman to carry her fourth child because she did not want to jeopardise her career.

The £43,000 procedure was organised by Conceptual Options, a private clinic in California. It not only enabled the woman to have her own fertilised egg implanted in a surrogate mother, but also allowed her to prearrange the sex of the baby.

'I want a daughter, but I don't want it to affect my career,' said the woman, who already has three sons aged five, six and nine.

An increasing number of women are 'renting' wombs for reasons of time pressure and vanity, with clinics in Britain as well as in the United States being asked to provide the service.

Successful businesswomen, actresses, athletes and models are among those opting for 'social surrogacy'. They cite career pressure, the pain of childbirth and the prospect of stretchmarks as the main reasons for avoiding pregnancy.

Theresa Erickson, a lawyer for Conceptual Options, said: 'It's not for us to judge why people do not want to carry a baby, although I have turned people away. Women can just say, "I need a surrogate", and doctors won't force her to allow them to check her fertility.'

Paul Serhal, medical director at the Assisted Conception Unit affiliated to University College Hospital London (UCL), said he was recently approached by an actress in her thirties.

'She was concerned about stretchmarks and wanted a surrogate to carry a baby produced from her egg and her partner's sperm,' Serhal said last week. 'If she came back, I would ask for the issues to be considered by the hospital ethics committee.'

The Los Angeles-based Egg Donation and Surrogacy Programme said that 5%–10% of surrogacy requests are for social rather than medical reasons. It added that nearly half of those are from men who do not want their wives to go through the physical endurance of pregnancy. Recent cases include:

- A Hollywood actress who hired a surrogate mother to carry a baby created from her egg and her lover's sperm. The surrogate had to sign a confidentiality agreement and, according to the clinic, 'probably did it for the money'.
- A model who approached a clinic in the American state of Georgia for a surrogate because she feared that a normal pregnancy would lower her income while she carried the baby.
- An American university professor who approached lawyers in Chicago to find out if she could have a social surrogacy. According to one lawyer close to the case she was worried about losing her tenure at the university if she became pregnant herself.

Cases of healthy women using surrogate mothers for social reasons are likely to anger campaigners for traditional families who believe that advances in fertility treatment have already gone too far.

These opening parts of a feature illustrate many facets of what might be termed 'issue-driven' investigative reporting, a genre that's become increasingly important in recent years. Not so much concerned with the exposure of wrongdoing, its main characteristics are a clear public interest element, an important moral or ethical question, and an angle that aims to illuminate and hopefully add to the public debate on the issue.

This investigation started as a general enquiry into new types of help available for infertile women who wished to have children and in particular what fees couples

were paying clinics to help them achieve their 'dream' families through sex selection. In the UK, rules about sex selection are strict – IVF doctors are not allowed to select and implant embryos on the basis of gender. However, as reported in the *Sunday Times* on 7 October, 2001, under the headline 'Couples fly out for designer babies', British couples were jetting to America to have the procedure done anyway (Harlow 2001). Mayes decided to cold-call fertility clinics to find out what these couples were asking for.

It was while she was talking to these clinics that a new angle emerged. Mayes recalls: 'As I was chatting to a clinic director in California I was told that some women were too busy to have their own children and paid for surrogates . . . These women had social reasons for surrogacy, a new departure for the fertility industry which is used to having people approach them because they are infertile.' Calling other clinics confirmed this was no wild rumour. Several clinics put the phone down on Mayes while some confirmed they had, indeed, received such requests while others confirmed they provided such a service. So what began as an investigation into one fertility trend ended up as an investigation of another – women seeking 'social surrogacy'. It was also the first time this issue had been written about in Britain.

Issue-driven journalism in less subtle hands can easily become campaigning journalism, which, although it has an honourable heritage of its own, should not be confused with traditional investigative reporting. Whether journalists see themselves riding a white charger to the rescue of the public interest or lying in the gutter and looking at the stars is a matter of personal preference or inclination. Ultimately, however, moral indignation is a poor substitute for perseverance, analysis and a bit of luck.

WWW trouble: THE WORLD WIDE WEB AND THE INTERNET

Key the words 'investigative journalism' into a search engine such as Google and you'll get around 150,000 hits. Add the words '+UK' and the number falls to about 20,000. If each of these 'UK' sites was investigated for five minutes during a typical working day it would take one year to look at them all. This startling 'fact' perhaps best illustrates both the strength and the weakness of the internet. On the one hand it is potentially a huge resource only a click away. On the other hand there is often too much information and much of it is incorrect, useless or both.

Despite this the internet has become indispensable to journalists and newsrooms alike. Used intelligently it saves time and can occasionally produce spectacular results. For the investigative journalist there are a number of sites that can speed up research and can offer a simple and inexpensive way of getting information that would otherwise require visits to libraries, government offices such as HMSO, Companies House or other specialist organizations dotted around the country. But this requires an understanding not only of how it works but also of the limitations of the web itself.

A word of warning: The internet is constantly changing and mutating. No text-book or guide can hope to keep pace with its electronic momentum. What is correct today may well be out of date tomorrow. Sites are discontinued and new sites appear with frightening speed. Information, however beguiling, on any site last updated more than three months previously should be treated with extreme caution. For the investigative journalist, therefore, corroboration of all but the most basic or trivial information is essential.

Before looking at the way it works, however, a couple of words on terminology. The internet and the World Wide Web are not the same thing. The internet is a network of computers linked to each other for the purpose of exchanging information. The name is simply a contraction of 'international network'. There are three main elements: email, Usenet newsgroups and the World Wide Web. For journalists, the World Wide Web is the most useful research tool and it relies on the simple concept of hypertext links, those clickable words or phrases that interconnect pages on the web. And there are essentially three methods of searching on the web – keying in the web address or URL (uniform resource locator) if this is known, such as www.lincoln.ac.uk, using a search engine (such as Google) or navigating by clicking on the hypertext links embedded within websites. In practice most journalists use all three.

Keeping your secrets

As soon as you log on to the internet you leave an electronic trace of your activities so it's sensible to get some protection. Minimise the chances of being discovered by taking some basic precautions – especially important if you don't want to alert someone to your activities or the investigation is of a particularly sensitive nature.

- Install a firewall. Microsoft Windows has one built into its system but it is worthwhile downloading free firewall software from a site such as zonelabs.com. Firewalls protect your system from potential hackers by filtering information coming through your internet connection. Thus snoopers will find it more difficult to read or modify your files.
- Surf the net by proxy. Products like Anonymizer (www.anonymizer.com) enable you to shield your IP address and protect you from on-line tracking, SPAM harvesting, hackers and snoops. Your surfing is encrypted, your IP address hidden, thus allowing you to hide your tracks effectively.
- Set up a new email address for each search and ensure it cannot be traced back to you by the account name (the bit before the @) or the domain name (the bit after the @). Domain names can be customised, e.g. teacher.com, and could thus offer a clue to the owner. For free email providers look at sites such as www.emailaddresses.com or www.internetemaillist.com.

If you have serious reason to believe you are being or may be stalked on the net, or if you're just paranoid, consider also the following:

- Ensure only the intended recipient can read your message or file. For a small charge download encryption software from sites such as www.pgp.com. This is the PrettyGoodPrivacy programme which comes in a variety of packages from email protection alone to full system protection.
- Access your email account from a computer not traceable directly to you, for example, from a cybercafé. Snoopers could trace the location of the computer you are sending messages from, but if you're away from your home or work address and have not been caught on camera, they cannot tell who you are.

- Pay-as-you-talk mobiles make it harder for snoopers to tell who is using the handset, especially if you do not register your SIM card.
- To be absolutely certain of your privacy you should avoid all forms of electronic communication. Not feasible as a standard modus operandi but at sensitive moments in an investigation it might be better to pass on information directly or to handwrite messages.

Searching the web

Going straight to a website if you have the address is simple enough. But if you aren't sure what you're looking for, then the place to start is usually a search engine such as Google or Yahoo!. Here guesswork is often as effective as any other method. For example, suppose you want to find information about casualties among non-embedded journalists in Iraq.

Let's go to Google – www.google.com, the most popular search engine currently operating – and type the words 'non-embedded journalists in Iraq' in the search box. This results in about 1,900 hits. Too many for comfort. If we then enclose the words within double quote marks "non-embedded journalists in Iraq" the number of hits falls to only 55. The reason for this is that any words within double quote marks will appear together in all results exactly as you have entered them. Ideally, however, we want to reduce the number of hits still further and this can be done by using the '+' search feature. After the last double quote mark key a space then '+' followed immediately by 'friendly fire deaths' thus: "non-embedded journalists in Iraq" + "friendly fire deaths". This reduces the number of hits to five. The last of these links has details of journalists who were killed during the war and its aftermath and also suggests there may be something sinister in their deaths. This extra piece of information could even set you off on a new investigation.

A couple of other Google search aids are the '-' and 'OR' features. Sometimes your search word can have two meanings: 'cookies' can refer to a small computer file or a biscuit. If you are researching biscuits you can put a minus sign immediately in front of the term(s) you wish to exclude: cookies – "website OR internet OR computer". Remember, however, to put a space between the search word and the minus sign. The 'OR' operator allows you to search for pages that contain word A or word B. If you are looking for a holiday in Morocco or France, for example, you can key in holiday morocco OR france (the 'OR' must be upper case).

Search engines are only databases of web page extracts. No single search engine can store all the billions of pages on the web so it is worth checking others if Google, for example, doesn't cut the mustard on a particular search. Try Yahoo! (www.yahoo.com), AltaVista (www.altavista.com), or HotBot (www.hotbot.com).

Looking for Mr Right: PEOPLE SEARCHES ON THE WEB

Whatever information you have on an individual, it is still worth starting your search with the basics. You may discover some of the data already taken for granted is incorrect or out of date and this could hamper later trawls. Start with www.bt.com, www.royalmail.co.uk or www.b4usearch.co.uk. This should give you the full postal address and phone number so long as your quarry is in the phone book or on the electoral register.

If you have no luck with this and 192.com (see below) similarly comes up blank, then you are in trouble. However, before you give up on the web try inputting the name of your quarry into a search engine such as Google. Suppose you want information on the writer Graham Greene. Entering "graham greene" will give you a number of results but as it's a name you should also check for Greene, Graham as well. To find sites with either of these name phrases insert an 'OR' between them thus: "graham greene" OR "greene graham". It will soon become clear that there is an actor with the same name and, therefore, you need to eliminate him from your search. Do this by adding a '- actor' to the search terms: "graham greene" OR "greene graham" – actor. If your particular search still draws a blank and the search is crucial, then you will have to try other methods or ultimately use a private detective agency. To put it simply, such agencies have sources that will get specific information for a fee while your hands remain 'clean'.

No name no pack drill?

Sometimes you may be confronted with an email address alone and, moreover, one that gives no clue to its owner. How do you go about discovering whom it belongs to? There are a number of email directory sites (try <http://mesa.rzn.uni-hannover.de>) but these are often either inadequate or inaccurate. However, if you take a punt that your target uses a newsgroup (Usenet news) either professionally or socially, or belongs to a chat room, chat forum or chat channel, then you may be able to discover who he or she is. Concentrate on those newsgroups that reflect your target's interests. If you know they like vintage cars, for example, then look at such newsgroups first.

Even if you know who your target is, there may be valuable information lurking in a chat room that could help your investigation. Check this by going to Google Groups (click 'groups' on the Google homepage) and entering the email address. If your target is a newsgroup or chat room user it should be revealed.

People sites

Most websites for tracing people have limitations, but the investigative journalist can sometimes find that elusive person, or a specific piece of information about him or her, by using one of the following:

- www.192.com Accessing basic information – names, addresses, phone numbers, etc. requires the purchase of 'credits'. Entry level buys you 100 credits for £24.99. The 2004 electoral roll requires subscription to the premium service. If you register use an email address created specifically for the purpose. Don't use your normal email address.
- <http://www.b4usearch.com> For people and business searches. Basic information is free.
- www.friendsreunited.co.uk A dedicated reunion directory to find old school friends.
- www.lostschoolfriends.com Useful but limited in scope.
- www.mesa.rzn.uni-hannover.de A search engine of large email directories.
- www.missing-you.net Free online message-posting service for people seeking lost friends.

- <http://order.internic.co.uk> (Click on the Whois tab) Should reveal your target if they have registered an internet domain name.
- www.servicepals.com For finding people who were in the services.
- www.tracesmart.co.uk People finder, address finder, database of all births, deaths and marriages in England and Wales between 1984 and 2002.
- www.gro.gov.uk and www.familyrecords.gov.uk Government web sites for the tracking down of birth, death and marriage certificates. Records go back to 1837.

Looking for company? ORGANISATION SEARCHES ON THE WEB

Organisations, like people, leave traces of their activities. Commercial organisations produce a variety of information from annual reports to new product blurbs. Public sector and voluntary organisations tend to be less 'in your face', aware that their activities often involve the expenditure of public money. However, voluntary organisations, public authorities, trades unions, etc. also set up companies whenever they wish to take advantage of the limited liability offered by incorporation.

For company searches the best place to start is Companies House. All companies with limited liability are required by law to deposit at Companies House a range of documents including articles of association, shareholder, director and member details, subsidiary and parent company information, and yearly balance sheets, profit and loss accounts and annual reports. The free search will provide basic company details, register of disqualified directors, insolvency details and history of company transactions. Fees on a sliding scale from £4 per search are payable for the full 'monty', anything from mortgage charge details to the latest accounts, annual return, and company record.

Charities are similarly governed by statute. The Charity Commission website is the place to start looking. All registered charities are listed as well as Inquiry Reports that give details of formal inquiries of charities carried out in accordance with Section 8 of the Charities Act 1993.

Local councils all have websites and the *Municipal Yearbook* site is the best place to start looking for information. Online searches are by job function or council name. Your right of access to local government information is enshrined in the Local Government (Access to Information) Act 1985 (Northmore 1996: 116–32), the Local Government Act 2000 and the Freedom of Information Act 2000. Central government information is available from a myriad sources but a good starting point is the *Civil Service Yearbook*.

- www.charity-commission.gov.uk The website of the Charity Commission, established to regulate charities in England and Wales.
- www.civil-service.co.uk Extensive information on central government departments, the Royal Households, research councils. Search by department name, job title or name. Subscription required for full service but the book itself is usually available in reference libraries.
- www.companieshouse.gov.uk Companies House is a government agency which contains records of all companies incorporated with limited liability. Its London address is 21 Bloomsbury Street, London, WC1B 3XD.

- www.municipalyearbook.co.uk Online searching for information on councils and local authorities. Search by keyword, job function, council name or interactive map. Subscription needed for full information but the book itself can be consulted in reference libraries.
- www.polis.parliament.uk POLIS is the Parliamentary OnLine Indexing Service, a database providing an index to the proceedings and publications of both Houses of Parliament including the full text of Early Day Motions since May 1997.
- www.statistics.gov.uk UK national statistics from government departments.

Looking for Mr Goodbar

Investigative journalism is often expensive and time-consuming and seldom carries any guarantee of success. So what can you do to minimise failure? The superstitious may consult a fortune-teller, find a four-leaf clover or buy a rabbit's foot, but we need a surer talisman, one that, without actually guaranteeing it, at least maximises our chances of success. Organisation and thoroughness are the key:

- *Go backwards* – Every effect has a cause. Find the cause by building a narrative of events, a time-line or something similar. Complex investigations may need multiple time-lines – for example, one for each of the protagonists in the story. Watch how they intersect and diverge. At some point you should discover the pivotal moment of your investigation – the 'big bang', if you like, of the universe you are briefly inhabiting.
- *Go public* – In any investigation there will be a wealth of information in the public domain. Search in libraries, the National Archive, Companies House, the Land Registry and so on. Perhaps advertise in local newspapers, shop windows or internet newsgroups for people with inside information to come forward.
- *Go looking* – Talk to everybody you turn up in your researches, regardless of how important they might seem to be. Anyone who is central should be face-to-faced. Others can be contacted by phone or email.

Apart from these working strategies there are a number of basic ground rules that apply to investigative reporting, from those you need to consider during the research phase to those that are paramount during the writing phase. No set of guidelines can be exhaustive but the following seem by common consent to be the most important:

- Ensure all significant facts are corroborated.
- Ensure all documents germane to the inquiry are checked for authenticity.
- Tape all conversations wherever possible and date all entries in your notebook. Sometimes these are your only defence against a potential action for defamation. In an ideal world you want a witness to everything.
- Visit the scene of the 'crime'. Neighbours talk, shopkeepers remember, employees divulge – but only if you talk to them face to face.
- Try to find sources prepared to be quoted and don't quote people if you don't know who they are or if their allegations seem too fanciful or outlandish.

- Protect your sources at all times, even if a refusal to divulge who they are constitutes a contempt of court. Prison might await, but if you can't be trusted to keep your word, you've no right to be an investigative journalist in the first place.
- Do not misrepresent who you are or what you are doing. This can often play badly if the lawyers are brought in. There are occasions when subterfuge is necessary e.g. exposing criminal activity, but it should be just that, necessary, and not just a wheeze or a sop to a reporter's vanity.
- Recent changes in the law, specifically the 'qualified privilege defence' (see Chapter 10), mean your allegations should be put to the person against whom you are making them, before publication.
- If you are researching in a strange town it's often a good idea to base yourself in the main library reference section. Virtually all the documents and books mentioned in this chapter are available there; you can usually access the internet and the staff are highly skilled and always helpful.
- Develop your interviewing skills. Remember you should attempt 'amiable conversations' rather than interrogations. Use open-ended questions and let your interviewee talk. In other words, don't interrupt all the time as if you're a tyro on the *Today* programme.
- Be aware that a minor error can undermine a whole investigation because it casts doubt on the credibility of your sources, your methods or your argument.
- Never prejudice the quality or value of potential information sources. You can reliably determine usefulness only after you have looked up that written source, tracked down and spoken to that individual. Even if you have doubts, do it anyway.
- Finally, consider the ethical dimension of your story – how will it impinge on the privacy or other human rights of your quarry? Do you have a convincing public interest defence?

There is one further test, however, that should be applied to the results of any investigation – have you presented the facts in such a way that readers can make up their own minds? As David Spark notes (1999: 94): 'The facts should be allowed to speak for themselves without loose and exaggerated expressions of opinion which could be hard to defend in court.'

And don't forget those non-electronic sources

What follows is an assortment of non-electronic sources that have proved valuable to researchers and investigative reporters alike – useful as a starting point, as a source of background detail or as a way of adding authority to your interviewing technique. It's a common yet nevertheless true dictum that you can never have too much information. All the volumes listed here should be available in good reference libraries.

People searches

- *Who's Who* Biographies of some 30,000 individuals (the British 'Establishment')
- *The International Who's Who* Ditto but world-wide
- *Debrett's Peerage and Baronetage* A who's who of all titled citizens of the UK and Ireland and the British royal family

- *The Catholic Directory* Lists Roman Catholic clergy in England and Wales plus details of schools, colleges, religious societies, etc.
- *Crockford's Clerical Directory* Who's who in the Church of England. Lists all clergy and their livings throughout the UK
- Family Record Centre at the General Register Office, 1 Myddleton Street, London, EC1R 1UW This office contains all birth, death and marriage certificates from 1837 onwards and wills before 1859. Copies of certificates are available for a fee of £11.50 or £7.00 if you visit one of their offices in person.
- Principal Registry of the Family Division of the High Court, 1st Avenue House, 42–49 High Holborn, London, WC1V 6NP This office contains copies of all wills lodged for probate in the UK, from January 1859 onwards. A printed index is, however, available locally at County Records Offices. Check the website at www.courtservice.gov.uk

Organisation searches: COMMERCIAL, PUBLIC, VOLUNTARY

- *Annual Reports* These are produced by public companies. The information is often very detailed and helpful to potential management, professional and technical employees. This information can be obtained from the company's public relations department.
- *The Municipal Yearbook* (Hemming Information Services) An annual two-volume publication which gives comprehensive details of all local authorities in the UK plus health authorities, emergency services, etc.
- *Who Owns Whom* (Dun & Bradstreet) Two-volume directory which shows the relationship between parent companies and their subsidiaries in the UK. Volume one lists over seven thousand parent companies and volume two lists all the subsidiary companies (over a hundred thousand) and matches them with their parent.
- *Key British Enterprises* (Dun & Bradstreet) Four-volume work giving financial data on turnover and capital, details of trade, trade names, trading styles and a full list of directors by name and function, of top fifty thousand businesses in the UK.
- *The Waterlow Stock Exchange Yearbook* (Caritas Data Ltd) Provides a brief financial description of all quoted public companies on the London and Dublin Stock Exchanges.
- *Kompass* (Reed Business Information) Published annually in three volumes. Volume one lists companies and gives basic facts on location, activities, staffing, directors etc.; volume two lists products and services; and volume three lists industrial trade names.
- *Britain's Top Privately Owned Companies* (Jordan Information Services) A five-volume directory of major British companies providing trading and financial information. Alphabetically lists details of company address, nature of business, name and telephone numbers of chief executive.
- *International Directory of Company Histories* (Thomson Gale) Detailed histories of more than 6,700 companies worldwide in 63 volumes. Full contact information, company history, key dates, etc.

- *Civil Service Yearbook* (The Stationery Office) Give details of all central and devolved government departments and key staff profiles.
- *Charity Choice UK: The Encyclopaedia of Charities* (Waterlow Professional Publishing) Lists more than eight thousand charities with full contact details and areas of activity.
- *The Green Index* J. Edgar Milner (Cassell) A directory of environmental organizations in Great Britain and Ireland – name, contact details, interest area.
- *The Diplomatic Service List* (The Stationery Office) A yearbook that lists all diplomatic staff at overseas embassies, high commissions and consular posts. Biographical notes on staff and ambassadors for previous twenty years.
- *Aslib Directory of Information Sources in the United Kingdom* by Keith Reynard Contains listings of more than eleven thousand associations, clubs, societies, companies, educational establishments, institutes, commissions, government bodies and other organisations which provide information freely or on a fee-paying basis.

And finally . . . Where are the new Pilgers?

'Where are the new Pilgers?' is the title of an article by Cleland Thom (2004) in a *Press Gazette* supplement on journalism training. He suggested with some persuasive evidence that more and more journalism students were likely to shun investigative reporting in favour of the fun and glamour of showbiz journalism. Thom quoted a course leader in journalism at a new university:

I'm immensely depressed by the poor standard of what passes for investigative journalism in British newspapers. You've got the occasional exception, such as Nick Davies in the *Guardian*, but generally it's sting-type stuff like Mazher Mahmood in the *News of the World*. When I trained, we all wanted to be John Pilger. Now all trainees see is the 3am girls.

Whether this course leader's depression will lift, whether there is a new generation of John Pilgers waiting in the wings, whether there are media organisations prepared to fund real investigative journalism again, all ultimately will depend on the desire, commitment and inspiration of a new generation of journalism students, whether on university courses, training schemes or through pure serendipity, deciding to take up the challenge and once again 'tell it like it is'.

12 Feature writing

Thinking visually, painting pictures with words

News features tend to contain more comment, analysis, colour, background, and a greater diversity of sources, than news stories and explore a larger number of issues in greater depth. It is the extra length that accounts for many of the distinguishing elements of features. In particular, their intro sections, where the overall tone of the piece is set, tend to be more colourful and varied in style than those of hard news. A news feature may argue a case; the personal views of the writer may be prominent. But the emphasis is still on the news.

The layout of a feature is often more colourful and imaginative than that of a news report. The headline, the standfirst (those few words that accompany most features summarising or teasingly hinting at its main point(s) and carrying the byline), the intro, the picture captions, and sometimes the graphic's contents are worked on together with the subeditor to convey the overall message of the piece. It helps then if the reporter is able to think visually while composing the feature. Adding extra, linked features to the package (such as a profile, a vox pop, a background chronology) will also help improve the overall display.

The intro

The news peg

Most news features do not start with the five Ws and the H of the traditional news opening section. The writing is more flexible – but the intro section still carries an urgency typical of straight news reporting. Occasionally a feature will begin in a news style but then break away to cover the issues in a distinctly 'un-newsy' way. For instance, the London *Evening Standard* (23 February 2000) began a feature on acquaintance rape with a straight news angle but moved on to carry the verbatim accounts of two women at length.

Acquaintance rape is Britain's fastest growing crime, according to recent Home Office research. But the rising figures could well be the tip of an iceberg, women's groups believe, because many such attacks – where the woman knows, no matter how briefly, her attacker – go unreported.

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Glossary

ABC – Audit Bureau of Circulation: organisation providing official figures for newspaper *circulation*

access provider – a company that sells *internet* connections (also known as an internet access provider or *internet service provider*)

ad – abbreviation for advertisement

add – additional copy, as when the Press Association (*PA*) follows lead of major story with new paragraphs

advance – statement/speech issued in advance to the media

advertorial – where distinction between editorial and advertising becomes blurred

agency – main news agencies are *PA*, Reuters, Agence France Presse, Itar-Tass, Associated Press. Also a large number of smaller agencies serving specialist and general fields. Copy known as wire copy. See also *snap*

agony aunt – woman offering advice to people who write to newspapers with personal or emotional problems. Agony uncle is the male equivalent, but there are not many of these around

alignment – ranging of copy text (and headlines) over columns. Copy ranged or aligned or set left begins on extreme left of column; all lines of copy ranged right are flush to the extreme right of the column and ragged on the left

alternative press – loose term incorporating wide variety of non-mainstream newspapers. Can include leftist, religious, municipal, trade union publications

ambush interview – when an interviewee is surprised by a suddenly different line of questioning or by a sudden appearance of a journalist (or group of journalists). Has dramatic flavour when done on television

angle – main point stressed in story usually in *intro*. Also known as hook. US: peg

AP – Associated Press news agency

apology – a newspaper may admit error and publish correction in apology. Complainant can still claim libel in court, and publication of apology provides no

defence for newspaper. But, if newspaper loses case, the fact that it took prompt and adequate steps to correct error and to express regret provides plea in mitigation of damages, tending to reduce size of damages awarded

artwork – all illustrations, maps, charts or cartoons that accompany copy

asterisk – * occasionally used in text to link footnote or to indicate letters of words considered obscene

attachment or work experience – time spent by student journalists training (or occasionally just observing) at media organisation. US: internship

attribution – linking information or *quote* to original source

author's marks – changes made by author on *proof* of copy

backbench – group of top-level journalists who meet to decide the overall shape and emphases in newspaper

background – section of news or *feature* story carrying information which serves to contextualise main elements. Also, in computer jargon, indicates hyphenation and justification system is operating while copy is being input

backgrounder – *feature* exploring the background to main story in the news

back issue – previous issue of paper

back-up – fallback supply of equipment, data or copy

banner – front-page headline extending across full page

baron – newspaper proprietor. Other words: mogul, magnate, boss

beat – when a story is gained before rival. US: refers to specialist area covered by reporter e.g. education, defence, health

bill or billboard – poster giving headline of main story of the day

black – in days of typewriters this was carbon back-up copy of top hard copy typed by reporter. Many contemporary computer systems still call copies of top story blax

blackout – organisation or government imposes ban on all news releases for specific period

blob par(s) – follows small black marking (usually a square, outline of square, a circle or sometimes in tabloid a star) at start of paragraph. *Bullet* in computer jargon

body – copy following *intro*

boil down – shorten copy

bold face – heavy-face type (in contrast to lighter *roman* type of most stories' body text) used for emphasising in copy, headlines, subheadings; see also *italic*

Boolean search – internet search allowing the inclusion or exclusion of documents containing certain words through the use of AND, NOT and OR

box – copy with rules around all four sides; see also *fact file*

break – moment when news story emerges. But bad break refers to ugly-looking hyphenation at end of line of text

breaker – any device (such as *crosshead* or *panel*) which breaks up text on page

brief – short item of news often of just one *par* but occasionally with up to four or five pars. Other names: snip/nib/bright/filler; also short advice given to journalists before they cover a story

broadsheet – large-size newspaper such as *Daily Telegraph*, *Financial Times*. A number of national newspapers previously broadsheet, such as the *Independent* and *The Times*, have recently turned *tabloid*, though calling themselves the more respectable *compacts*

browser – software program for navigating the internet, in particular the World Wide Web

bureau – newspaper office in foreign country

bury – when important information or *quote* is carried within the body of text so its impact is lost

bust – when copy text or headlines run over allotted space

buy-up – see *chequebook journalism*

byline – gives name of journalist(s) who have written article. Otherwise known as credit line. Subs sometimes call it blame line. When appears at end of story known as *sign-off*

calls (or **check calls**) – routine telephone calls (or sometimes face-to-face visits) by reporters to bodies such as police, ambulance, hospitals, fire brigade (usually supplying information on tapes) to check if any news is breaking

campaigning journalism – overtly partisan journalism promoting particular cause. US: advocacy journalism

caps – see *upper case*

caption – words accompanying any picture or *artwork*. A caption amounting to a small story is a caption story

casting off – estimating length of story

casual – journalist employed by newspaper on a temporary basis. Since it is cheaper for employers, numbers are growing

catchline – usually single word identifying story which is typed in right-hand corner of every page. Subeditor will tend to use this word to identify story on layout. US: slug

CD-ROM – abbreviation of compact-disc-read-only-memory. CD holding computer-accessible data. For instance, dictionaries and back issues of newspapers are available in this form

centre spread – copy and pictures running over two pages in centre of newspaper

chapel – newspaper branch of National Union of Journalists. Chair, if male, is father of the chapel; if female, mother of the chapel

chequebook journalism – activity in which newspapers compete to purchase rights to buy up someone's story

circulation – total number of copies of each issue sold; see also *readership*

city desk – section of newspaper running financial pages

classified ads – small ads classified according to subject area and carrying no illustrations (cf. *display ads*)

clips or **clippings** – stories cut from newspapers and usually filed. Most newspapers have *cuttings* libraries to assist journalists' research. Individual journalists will have their own cuttings files. Increasingly computerised

colour – section of newspaper copy focusing on descriptions or impressions. Thus a colour *feature* is one which puts emphasis on description and the subjective response of the journalist, though the news element may still be strong

column – vertical section of article appearing on page. Also known as leg

columnist – journalist who provides comment in regular series of articles

column rule – usually light line between columns of type

compact – tabloid version of former broadsheet newspaper e.g. the *Independent*, *The Times*

conference – meeting of editorial staff to discuss previous issue/s and plan future ones

contact – journalist's source

contacts book – pocket-sized booklet carried by reporter listing contact details of sources

copy – editorial material. Hard copy refers to editorial material typed on paper

copy approval – allowing a person to see and approve copy before publication

copy tasting – see *taster*

correspondent – usually refers to journalist working in specialist area: defence, transport; or abroad e.g. Cairo correspondent

credit – byline of photographer or illustrator

crop – to cut a picture

crosshead – small heading usually of one or two words within body of text of larger type size than body text sometimes with *underline*. Used for design purposes to break up grey area of text. Word is usually drawn from text following but carries no great news value. Written by subeditor and not reporter

cross-ref – abbreviation of cross-reference: indicates story continues or begins on another page

cub reporter – trainee

cursor – usually dash or arrow on the computer screen indicating position of the next input

curtain raiser – story which provides background to forthcoming event. Otherwise known as scene setter

cut – remove copy from script, screen or page proof

cut-out – illustration with background cut, masked or painted out so that the image appears on the white of the page background

cuttings – stories cut from newspapers or magazines; a cuttings job is an article based on cuttings; also known as *clips* or *clippings*

database – storage of electronically accessible data

dateline – place from which story was *filed*, usually applied to stories from abroad

'day in the life of' profile – *feature* focusing on particular day of subject. Not to be confused with 'life in the day of' profile, which covers subject's life but in context of talking about currently typical day

deadline – time by which copy is expected to be submitted

death knock – when a journalist breaks news of a death to a member of the public

deck – unit of a headline

Deep Throat – secret *whistleblower* on major scandal. First given to secret source/s for Woodward and Bernstein in Watergate scandal. Derived from title of (in)famous pornographic film starring Linda Lovelace. In May 2005, Mark Felt, the FBI's No. 2 at the time, admitted being Deep Throat

delete – to cut or remove

desks – departments of newspapers: thus news desk, features desk

diary column – gossip column; also a day-to-day personal account

diary piece – article derived from routine sources (press conferences, press releases, council meetings, Parliament) listed in diary (originally in written form but increasingly on screens) which helps news desk organise news-gathering activities. Off-diary stories come from reporter's initiative and from non-routine sources

dig – to do deep research

direct entry – entry to journalism through publication which runs its own training programme

direct input – process by which text goes straight from editorial screen into computer for typesetting thus cutting out process in which printers typed out copy

discussion list – individuals communicating via email subscribe to the list and then receive all messages other subscribers send

disk – hard or floppy disk containing computer information (but note: compact disc)

display ads – large advertisements usually containing illustrations (cf. *classified ads*) and appearing on editorial pages. Advertising department will organise distribution of ads throughout the newspaper which is usually indicated on a *dummy* handed to subs before layout begins

district office – any office away from newspaper's main one

domain name – system of names to describe precise position of computer on the internet (e.g. city.ac.uk is the domain for City University, London)

doorstepping – journalists pursuing sources by standing outside their front doors. Now journalists often wait in cars

double column – text or headline or graphics over two columns. Double-page spread is a feature occupying two facing pages

download – to transfer data from one computer to another

downpage – story appearing in bottom half of newspaper page

downtable – subs other than the chief and deputy chief subs (who often used to sit at the top table of the subs room)

drop cap – capital letter at start of *par* occupying more than one line of text

dumbing down – claim that media standards, in general, are falling with increasing emphasis on sensationalism, celebrities, 'human interest' stories, sexual titillation, scandal and sleaze; see also *tabloidisation*

dummy – small version of editorial pages used for planning overall contents and usually containing details of *display ads*

editor – person in overall charge of the editorial content of the newspaper

editorial – all non-advertising copy; also a column in which newspaper expresses its views on issues (sometimes known as leader)

email – electronic mail carried on the internet

embargo – time (often found on press release) before which information should not be published

exclusive – story supposedly unique carried by newspaper. System becomes devalued when attached to stories too frequently or when the same story is carried in other newspapers (as often happens)

eye-witness reporting – presence of reporter at news event can provide unique opportunities for descriptive writing

e-zine – electronic magazine

fact file – listing of facts (often *boxed*) relating to story. Useful way of creating visual and copy variety on page

feature – as distinct from news story, tends to be longer, carry more background information, *colour*, wider range of sources, and journalist's opinion can be prominent

feedback – response from colleagues or public to journalist's copy

file – (verb) to send story from foreign country; (noun) anything stored on a computer such as a document, program or image

filler – short story, usually of one or two pars, filling in space when a longer story runs short (also known as brief)

fireman – person sent from newspaper's headquarters to cover major story (either at home or abroad). Notice gender bias in word

fit – when text, picture or headline does not overrun (bust) its allotted space

Fleet Street – though newspapers have dispersed from this street in East London (between the Strand and St Paul's Cathedral), national newspapers as a collective group are still known by this name. Often known as Street of Shame

floppy disk – flexible disk used for storage of information on computers

font – typeface of one particular size (incorrectly spelled as fount)

Fourth Estate – press supposedly occupying the position of fourth most powerful institution after Lords Spiritual, Lords Temporal and Commons (Lord Macaulay: 'The gallery in which reporters sit has become a fourth estate of the realm.')

free – free newspaper

freebie – range of services and entertainments (e.g. drinks, meals, trips abroad funded by organisations, concert tickets etc.) provided free to journalists. Some journalists believe acceptance of freebies compromises 'objectivity' and refuse them

freelance – journalist contributing to several media outlets and not on permanent staff of any one organisation; see also *stringer*. US: freelancer

FTP – File Transfer Protocol, used to transfer files across the internet

galley proof – see *proof*

gopher – a menu system allowing you to navigate the internet, largely displaced by the World Wide Web

graphics – illustrations and drawings used in designing pages

gutter – space between pages in centre spread; also space between any two columns on computer screens

gutter press – sometimes applied to *tabloid* press

hack – insult word for journalists which journalists are happy to use to describe themselves

hamper – story displayed horizontally, usually at the top of page

handout – story sent to media outlets by press relations office of organisation or PR company

hard copy – copy typed on sheets of paper (usually A4 size). Each page is known as a folio

hard news – news focusing on who, what, where, when, why based on factual detail and quotes and containing little description, journalist comment or analysis; cf. *soft news*

heavies – 'serious' papers such as *Guardian*, *The Times*, *Financial Times*

hold – instruction (usually known as set and hold) ensuring copy is prepared for publication but not printed, as for instance an *obituary* of some eminent person written in advance

home page – either the front page that is loaded at start-up by *web browser* or the main web document for a group, person or organisation

house – media organisation. Thus in-house (meaning within particular media organisation). House organ is company's own newspaper or magazine; see also *style*

HTML – hypertext mark-up language, comprising the codes for writing web pages

human interest story – story focusing on success, failures, tragedies, emotional/sexual histories of people, eliminating or marginalising more abstract and deeper cultural, economic, political, class-based factors

hypertext – divides a document into clickable links that connect web pages to each other

imprint – name and address of printer and publisher required by law on newspaper

indent – abbreviation for indentation providing white space at start or end of line

in-depth reporting – detailed coverage

index – front page (or sometimes elsewhere) listing of stories in rest of paper, to ease reading and 'sell' or 'flag' the contents in prominent place

in-house – see *house*

input – to type copy into computer

insert – copy injected into story which is already written or set

inside story – reporter bases investigation on their experience and research within organisation(s) at centre of controversy and/or quotes from insiders within organisation

internet – network of interconnecting computers communicating through the TCP/IP (Transmission Control Protocol/Internet Protocol)

internet service provider (ISP) – organisation providing access to the internet

intro – opening of news or feature story usually containing main *angle*. Not necessarily just single *par*. Also known as lead. US: nose

inverted pyramid – traditional representation of news stories (with main point at start and information declining in news value thereafter and ending with short background). Tends to oversimplify structure of news story. Better to imagine series of inverted pyramids within an overall large pyramid

investigative reporting – in one respect all journalism involves investigation. But investigative journalism tends to reveal something of social or political significance which someone powerful or famous wants hidden. US: muckraking

issue – all copies of the day's paper and its editions

italic – typeface sloping to the right *like this*; see also *bold* and *roman*

journalese – journalists' jargon

journo – jocular term for journalist

justify – line of text set to fit given measure

kill – to decide not to use (or drop) story or feature. Newspapers are supposed to pay ‘kill fee’ when they break an agreement to use freelance copy

knock down – to disprove story, usually in rival newspaper

label – headline merely categorising the news e.g. ‘Interview with PM’

layout – design of the page, originally by *subeditor* using pencil and sent to compositor for guidance but normally now done totally on screen

lead (pronounced led) – space between lines of type (derived from former ‘hot metal’ printing system when strips of metal, or leads, were used for this purpose). Led-out copy has its lines spaced out to fit allotted space

lead (pronounced leed) – main story on page. On front page otherwise known as *splash*

leader – see *editorial*

legal (verb) – to send copy to lawyer to be checked for libel, contempt etc.

life in the day of – see *day in the life of*

lift – to use whole or section of story from one edition to the next; also to pinch story from other media outlet changing and adding only a little. When barest minimum is changed known as ‘straight lift’

linage – payment to freelancers based on number of lines of copy used

line drawing – drawing made up of black lines as in cartoon

listings – lists usually of entertainment events giving basic information: times, venue, phone numbers and so on

Listserv – software for organising an email discussion list

literal – typing error, either misspelling or mistranscription

lobby – specialist group of correspondents reporting House of Commons

lower case – small letters in *font* of type (as opposed to *upper case* or *capitals*)

masthead – newspaper’s title on front page

middle-market – newspapers such as *Mail* and *Express* which lie (in overall style and appearance) between *heavies* and the *red-tops*

modem – telephone link-up for computers, most commonly used for sending email and accessing the internet

mole – a secret source for investigative journalist buried deep in the heart of organisation whose activities they are prepared to reveal

moonlighter – journalist who works during the evening for media organisation while holding another full-time job during day. Nice to be but it means moonlighter is depriving colleague of job

mug shot – photo showing just face (and sometimes shoulders), otherwise known as head and shoulders

must – editorial copy which must appear e.g. apology, correction

New Journalism – literary form of reportage pioneered in US in 1960s and 1970s by Norman Mailer, Tom Wolfe, Joan Didion and Truman Capote

newsgroups – discussion groups on the internet

New World and Communication Order – a concept promoted by UNESCO in 1970s and 1980s to counter dominance of international news flows by five major news agencies. Western countries, particularly US and UK, saw it as ‘threatening the flow of information’

nibs – short news stories

obit – abbreviation of obituary, an account and appreciation of someone’s life

off-beat – unusual story often with a humorous twist

offline – not connected to the internet

off the record – when statements are made not for publication but for background only. Information derived from comments should in no way be traceable back to source

online – connected to the internet

on spec – uncommissioned article submitted voluntarily to media

on the record – when there are no restrictions on reporting what is said

op ed – abbreviation of opposite editorial, being the page opposite one on which editorial or leader comment falls. Usually contains important features and commentary by prestigious columnists

opinion piece – article in which journalist expresses overt opinion

overline – see *strap* or *strapline*

PA – abbreviation for Press Association, an *agency* which supplies national news and features (as well as an international service from its link up with Reuters) to national and local papers. ‘Page-ready’ copy from PA is designed and can be slotted straight into newspaper

pack – collection of journalists (sometimes known as ‘rat-pack’) as in ‘following the pack’

panel – text larger than body text with lines top and bottom. Serves to break up grey block of copy. Written by *subeditors*

paparazzi – horde of photographers

par – abbreviation for paragraph. Also para

pay-off – last par with twist or flourish

pic – abbreviation for picture meaning photograph; plural *pix*

pick-up – journalist attending function might pick up or take away a photograph supplied by the organisers, known as a pick-up job; also journalists following up an event after it has happened are ‘picking up’ news

picture-grabber – facility for taking pictures off television

podding – scheme originally promoted by Westminster Press in which multi-skilled subs, reporters and photographers worked in small teams

pool – privileged small group of journalists with special access to event or source. Their reports and findings are distributed to those news organisations outside the pool

pops/populars – mass-selling national *tabloids*; now known as *red-tops* because their *mastheads* are in red

PR – abbreviation for public relations

press release – announcement made by organisation specially for use by media (not necessarily just press)

probe – investigation

profile – picture in words which usually focuses on an individual, but an organisation, a car, a horse, a building, and so on can be profiled

proof – printout of part or whole page. This proof is read, corrected where necessary and the amended page (the revise) is then ready for final printing. Galley proof contains just columns of type

puff – story giving publicity

punchline – main point of story. Thus ‘punchy’ means story has a strong news angle

qualities – see *broadsheets*

quote – abbreviation for quotation; also, when a reporter files copy over phone, ‘quote’ then means first inverted commas. End quote marks are often known as ‘unquote’

readership – number of people who read paper as opposed to the number of copies sold

red-tops – tabloid newspapers such as the *Mirror*, the *Sun* and the *People*, so-called because their *mastheads* are red

re-jig/re-hash – rearrangement of copy provided by reporter usually by *subeditor* to produce a better-structured piece

retrospective – *feature* looking back on event

re-vamp – change story or page in light of new material

revise – see *proof*

rewrite – to use information provided in story but compose it in completely new language. Known as rewrite job

ring-around – story based on series of telephone calls

roman – standard typeface (not *bold* or *italic*)

round-up – gathering together of various strands of story either under the same heading (otherwise known as umbrella story) or under variety of headings

roving reporter – reporter who travels around a lot

RSI – abbreviation for repetitive strain injury, which journalists can suffer through their use of a keyboard and a mouse

run – period of printing edition

running story – story which runs or develops over number of editions or days

run on – continue from one line, column or page to the next

scoop – exclusive

screamer – exclamation mark (usually in headline)

search engine – provides for subject searching on the internet through feeding terms on to a *database* and returning a list of ‘hits’ or correspondences

section – separately folded part of the paper

server – computer that makes services and data available on a network

set and hold – see *hold*

sexy story – story with popular appeal. But many ‘sexy stories’ give sex a bad name

sign-off – byline at foot of story

silly season – supposedly a time (usually in the summer holiday period) when little *hard* news is around and the press is reduced to covering trivia. For some newspapers the silly season can last a long time. Wars and invasions often happen in silly seasons, too

sister paper – when company owns more than one paper each is described as sister. Thus *The Times* is the *Sun*’s sister since both are owned by Rupert Murdoch

sketch – light, often witty article describing event. Most commonly used with reference to reporting House of Commons

slip – special edition for particular area or event

snap – brief information given by news *agency* before main story is sent

snapper – photographer

soft news – light news story that can be more colourful, witty and commenty than *hard news*

soundbite – short, pithy quote used by journalists. First coined by US radio and television journalists in the late 1960s

spoiler – story or picture run deliberately early to ‘spoil’ a rival’s ‘exclusive’

spike – to reject copy or other information (e.g. *press release*). Derived from old metal spike which stood on wooden base on which subs would stick unwanted material. Had advantage over ‘binning’ since material was accessible so long as it remained on spike

spin doctors – people who attempt to influence news or political agenda (the ‘spin’ in the jargon) such as press officers, communications specialists and other propagandists

splash – lead news story on front page

standfirst – text intended to be read between headline and story which can elaborate on point made in headline, add new one or raise questions which will be answered in story (a teaser). Sometimes contains *byline*. Helps provide reader with a ‘guiding hand’ into reading large slice of copy – thus mainly used for features and occasionally long news stories. Also known as the ‘sell’

stet – ignore deletion (Latin for ‘let it stand’)

stop press – column on back page of newspaper left blank and allowing for slotting in of breaking news just before publication

strap or **strapline** – headline in smaller type appearing over main deck. Otherwise known as overline

stringer – *freelance*, in provinces, in London or overseas, who has come to arrangement with news organisation to supply copy on agreed basis. Super-stringer will contract to devote most of working for one organisation but still be free to freelance for other media outlets for rest of time

style – special rules adopted by newspaper relating to spellings, punctuation and abbreviation. Often contained within style book though increasingly carried on screen. Many newspapers somehow survive without them

subeditor/sub – responsible for editing reporters’ copy, writing headlines, captions, laying out pages etc. Stone sub makes final corrections and cuts on page proofs. US: copy editor

tabloid – newspaper whose pages are roughly half the size of *broadsheet*. All *pops* or popular papers are tabloids as are *sections* of some of the *heavies*. Serious tabloids exist on the Continent (*Le Monde* in France, for instance) and in US (*Los Angeles Times*). Here in the UK *The Times* and *Independent* have turned tabloid (though they call themselves *compacts*)

tabloidese – shoddy, over-sensational, cliché-ridden copy most commonly associated with the *tabloids*

tabloidisation – claim that media in general are following tabloid values prioritising entertainment, sensationalism and scandal above ‘hard facts’

take – page or number of pages comprising a section of longer piece

taster – journalist who checks copy, selecting good and removing unwanted. Process known as copy tasting

think piece – analytical article

tip-off – information supplied to newspaper by member of the public

top – story at the top of a page

tots – abbreviation for ‘triumph over tragedy story’, particularly popular human interest genre

trim – cut a report

umbrella story – see *round-up*

underline – to carry a line or rule under headline or *crosshead*

upper case – capital letters when used alongside small (*lower case*) letters. When just capital letters are used (as in headlines) they are known as *caps*

URL – uniform resource location: a string of characters identifying internet resource and its location; the most common ones begin <http://>

web browser – software for viewing websites, such as Internet Explorer and Netscape Navigator

whistleblower – person revealing newsworthy and previously secret information to media

widow – short line left at top of column

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For Lynne

&

For Beth and Karina

4 Journalism of Verification

As he sat down to write, the Greek correspondent wanted to convince his audience it could trust him. He was not writing an official version of the war, he wanted people to know, nor a hasty one. He was striving for something more independent, more reliable, more lasting. He had been mindful in his reporting of the way memory, perspective, and politics blur recollection. He had double-checked his facts.

To convey all this, he decided to explain the methods of his reporting right at the beginning. This is the dedication to the methodology of truth Thucydides drafted in the fifth century B.C. in the introduction to his account of the Peloponnesian War:

With regard to my factual reporting of events . . . I have made it a principle not to write down the first story that came my way, and not even to be guided by my own general impressions; either I was present myself at the events which I have described or else heard of them from eye witnesses whose reports I have checked with as much thoroughness as possible. Not that even so the truth was easy to discover: different eye witnesses gave different accounts of the same events, speaking out of partiality for one side or the other, or else from imperfect memories.¹

Why does this passage seem so contemporary more than 2,000 years after it was written? Because it speaks to the heart of the task of nonfiction: How do you sift through the rumor, the gossip, the failed

memory, the manipulative agendas, and try to capture something as accurately as possible, subject to revision in light of new information and perspective? How do you overcome your own limits of perception, your own experience, and come to an account that more people will recognize as reliable? Strip away all the debate about journalism, all the differences between media or between one age or another. Day to day, these are the real questions faced by those who try to gather news, understand it, and convey it to others.

While not standardized in any code, every journalist operates by relying on some often highly personal method of testing and providing information—his own individual discipline of verification. Practices such as seeking multiple witnesses to an event, disclosing as much as possible about sources, and asking many sides for comment are, in effect, the discipline of verification. These methods may be intensely personal and idiosyncratic. Writer Rick Meyer at the *Los Angeles Times* splices his facts and interviews into note-card-like snippets and organizes them on his office floor. Or they may be institutionalized, like the fact-checking department of *The New Yorker*. But by whatever name, in whatever medium, these habits and methods underlie the third principle:

The essence of journalism is a discipline of verification.

In the end, the discipline of verification is what separates journalism from entertainment, propaganda, fiction, or art. Entertainment—and its cousin “infotainment”—focuses on what is most diverting. Propaganda will select facts or invent them to serve the real purpose—persuasion and manipulation. Fiction invents scenarios to get at a more personal impression of what it calls truth.

Journalism alone is focused first on getting what happened down right.

This is why journalists become so upset with Hollywood movie-makers when they stray into real-life accounts. *60 Minutes* correspondent Mike Wallace was livid in 1999 when the movie *The Insider* put invented words in his mouth and altered time frames to suggest he was worried about his “legacy” when he caved in to the tobacco industry

on a story. "Have you ever heard me invoke the word *legacy*? That is utter bullshit . . . and I'm offended."² The film's director, Michael Mann, countered that though things were changed to make the story more dramatic, the film was "basically accurate" to some larger definition of truthfulness, since Wallace had indeed caved. If words were invented or if Wallace's motives were different, it didn't matter. In this sense utility becomes a higher value and literal truth is subordinated to necessary fictions.

The two men are talking different languages. Mann is saying Wallace is, in effect, hiding behind the facts to obscure the significance of what he did. Wallace is suggesting the significance can never be detached from an accurate account of the details. In this case both arguments may be defensible. But the journalistic process of verification must take both of these into account.

Journalists often fail to connect their deeply held feelings about craft to the larger philosophical questions about journalism's role. They know how to check a story. They can't always articulate the role that checking a story plays in society. But it resides in the central function of journalism. As Walter Lippmann put it in 1920, "There can be no liberty for a community which lacks the information by which to detect lies."³

THE LOST MEANING OF OBJECTIVITY. Perhaps because the discipline of verification is so personal and so haphazardly communicated, it is also part of one of the great confusions of journalism—the concept of objectivity. The original meaning of this idea is now thoroughly misunderstood, and by and large lost.

When the concept originally evolved, it was not meant to imply that journalists were free of bias. Quite the contrary. The term began to appear as part of journalism early in the last century, particularly in the 1920s, out of a growing recognition that journalists were full of bias, often unconsciously. Objectivity called for journalists to develop a consistent method of testing information—a transparent approach to evidence—precisely so that personal and cultural biases would not undermine the accuracy of their work.

In the latter part of the nineteenth century, journalists talked about something called realism rather than objectivity.⁴ This was the idea that if reporters simply dug out the facts and ordered them together, the

truth would reveal itself rather naturally. Realism emerged at a time when journalism was separating from political parties and becoming more accurate. It coincided with the invention of what journalists call the inverted pyramid, in which a journalist lines the facts up from most important to least important, thinking it helps audiences understand things naturally.

At the beginning of the twentieth century, however, some journalists began to worry about the naïveté of realism. In part, reporters and editors were becoming more aware of the rise of propaganda and the role of press agents. At a time when Freud was developing his theories of the unconscious and painters like Picasso were experimenting with Cubism, journalists were also developing a greater recognition of human subjectivity. In 1919, Walter Lippmann and Charles Merz, an associate editor for the *New York World*, wrote an influential and scathing account of how cultural blinders had distorted the *New York Times* coverage of the Russian Revolution.⁵ "In the large, the news about Russia is a case of seeing not what was, but what men wished to see," they wrote. Lippmann and others began to look for ways for the individual journalist "to remain clear and free of his irrational, his unexamined, his unacknowledged prejudgments in observing, understanding and presenting the news."⁶

Journalism, Lippmann declared, was being practiced by "untrained accidental witnesses." Good intentions, or what some might call "honest efforts" by journalists, were not enough. Faith in the rugged individualism of the tough reporter, what Lippmann called the "cynicism of the trade," was also not enough. Nor were some of the new innovations of the times, like bylines, or columnists.⁷

The solution, Lippmann argued, was for journalists to acquire more of "the scientific spirit. . . . There is but one kind of unity possible in a world as diverse as ours. It is unity of method, rather than aim; the unity of disciplined experiment." Lippmann meant by this that journalism should aspire to "a common intellectual method and a common area of valid fact." To begin, Lippmann thought, the fledgling field of journalism education should be transformed from "trade schools designed to fit men for higher salaries in the existing structure." Instead, the field should make its cornerstone the study of evidence and verification.⁸

Although this was an era of faith in science, Lippmann had few illusions. "It does not matter that the news is not susceptible of mathematical statement. In fact, just because news is complex and slippery, good reporting requires the exercise of the highest scientific virtues."⁹

In the original concept, in other words, the method is objective, not the journalist. The key was in the discipline of the craft, not the aim.

The point has some important implications. One is that the impartial voice employed by many news organizations, that familiar, supposedly neutral style of newswriting, is not a fundamental principle of journalism. Rather, it is an often helpful device news organizations use to highlight that they are trying to produce something obtained by objective methods. The second implication is that this neutral voice, without a discipline of verification, creates a veneer covering something hollow. Journalists who select sources to express what is really their own point of view, and then use the neutral voice to make it seem objective, are engaged in a form of deception. This damages the credibility of the whole profession by making it seem unprincipled, dishonest, and biased. This is an important caution in an age when the standards of the press are so in doubt.

Lippmann was not alone in calling for a greater sense of professionalization, though his arguments are the most sophisticated. Joseph Pulitzer, the great innovator of yellow journalism a generation earlier, had just created the Graduate School of Journalism at Columbia University for many of the same, though less clearly articulated, reasons. The Newspaper Guild was founded in large part to help professionalize journalism.

Over the years, however, this original and more sophisticated understanding of objectivity was utterly confused and its meaning lost. Writers such as Leo Rosten, who authored an influential sociological study of journalists, used the term to suggest that the journalist was objective. Not surprisingly, he found that idea wanting. So did various legal opinions, which declared objectivity impossible. Many journalists never really understood what Lippmann meant.¹⁰ Over time, journalists began to reject the term *objectivity* as an illusion.

In the meantime, reporters have gone on to refine the concept Lippmann had in mind, but usually only privately, and in the name of technique or reporting routines rather than journalism's larger pur-

pose. The notion of an objective method of reporting exists in pieces, handed down by word of mouth from reporter to reporter. Developmental psychologist William Damon at Stanford, for instance, has identified various "strategies" journalists have developed to verify their reporting. Damon asked his interviewees where they learned these concepts. Overwhelmingly the answer was: by trial and error and on my own or from a friend. Rarely did journalists report learning them in journalism school or from their editors.¹¹ Many useful books have been written. The group calling itself Investigative Reporters and Editors, for instance, has tried to develop a methodology for how to use public records, read documents, and produce Freedom of Information Act requests.

By and large, however, these informal strategies have not been pulled together into the widely understood discipline that Lippmann and others imagined. There is nothing approaching standard rules of evidence, as in the law, or an agreed-upon method of observation, as in the conduct of scientific experiments.

Nor have the older conventions of verification been expanded to match the new forms of journalism. Although journalism may have developed various techniques and conventions for determining facts, it has done less to develop a *system* for testing the reliability of journalistic interpretation.

JOURNALISM OF ASSERTION VERSUS JOURNALISM OF VERIFICATION. Now, moreover, the modern press culture generally is weakening the methodology of verification journalists have developed. Technology is part of it. "The Internet and Nexis [plus services developed over the last decade or so for sharing and disseminating video] afford journalists easy access to stories and quotes without doing their own investigating," journalist Geneva Overholser told us at one Committee of Concerned Journalists forum. Facts have become a commodity, easily acquired, repackaged, and repurposed. In the age of the 24-hour news cycle, journalists now spend more time looking for something to add to the existing news, usually interpretation, rather than trying to independently discover and verify new facts. "Once a story is hatched, it's as if all the herd behavior is true. The story is determined by one medium—one newspaper or TV account. . . . Partly because news organizations are being consolidated

and partly because of electronic reporting, we all feed at the same trough," said Overholser.¹²

The case of presidential candidate Al Gore is only one example of how technology can weaken the process of double-checking. As Gore campaigned in the 2000 election, the press began to focus on his seeming propensity to exaggerate past accomplishments. One account referred to Gore's "Pinocchio problem," another called him a "liar," and a third "delusional."¹³ A key bit of evidence was his supposed claim that he had discovered the Love Canal toxic waste site in upstate New York. The problem is, Gore had never made any such claim. He had told a group of New Hampshire high school students that he first learned about hazardous waste dangers when a constituent told him about a polluted town in Tennessee called Toone and Gore wanted to hold hearings. "I looked around the country for other sites like that," he told the students. "I found a little place in upstate New York called Love Canal. Had the first hearing on the issue, and Toone, Tennessee—that was the one that you didn't hear of. But that was the one that started it all."¹⁴

The next day, however, the *Washington Post* misquoted Gore completely as saying "I was the one that started it all." In a press release, the Republican Party changed the quote to "I was the one who started it all." The *New York Times* printed the same misquote as the *Post*. Soon the press was off and running, relying on the faulty accounts fixed in the Nexis database of the two papers. It didn't catch anyone's attention that the Associated Press had the quote correct. The matter was not cleared up until the high school students themselves complained.

As journalists spend more time trying to synthesize the ever-growing stream of data pouring in through the new portals of information, the risk is they can become more passive, more receivers than gatherers. To combat this, a better understanding of the original meaning of objectivity could help put the news on firmer footing. We are not the only ones to recognize this. "Journalism and science come from the same intellectual roots," said Phil Meyer, University of North Carolina journalism professor, "from the seventeenth- and eighteenth-century enlightenment. The same thinking that led to the First Amendment"—the idea that out of a diversity of views we are more likely to know the truth—also "led to the scientific method. . . . I think this connection between journalism and science ought to be restored to the extent that we can. . . . I think we

ought to emphasize objectivity of method. That's what scientific method is—our humanity, our subjective impulses . . . directed toward deciding what to investigate by objective means."¹⁵

Seen in this light, fairness and balance take on a new meaning. Rather than high principles, they are really techniques—devices—to help guide journalists in the development and verification of their accounts. They should never be pursued for their own sake or invoked as journalism's goal. Their value is in helping to get us closer to more thorough verification and a reliable version of events.

Balance, for instance, can lead to distortion. If an overwhelming percentage of scientists, as an example, believe that global warming is a scientific fact, or that some medical treatment is clearly the safest, it is a disservice to citizens and truthfulness to create the impression that the scientific debate is equally split. Unfortunately, all too often journalistic balance is misconstrued to have this kind of almost mathematical meaning, as if a good story is one that has an equal number of quotes from two sides. As journalists know, often there are more than two sides to a story. And sometimes balancing them equally is not a true reflection of reality.

Fairness, in turn, can also be misunderstood if it is seen to be a goal unto itself. Fairness should mean the journalist is being fair to the facts, and to a citizen's understanding of them. It should not mean, "Am I being fair to my sources, so that none of them will be unhappy?" Nor should it mean that journalist asking, "Does my story seem fair?" These are subjective judgments that may steer the journalist away from the need to do more to verify her work.

Clarifying such common misunderstandings and improving the discipline of verification may be the most important step journalists can take in improving the quality of news and public discussion. In the end, this discipline is what separates journalism from other fields and creates an economic reason for it to continue. A more conscious discipline of verification is the best antidote to the old journalism of verification being overrun by a new journalism of assertion, and it would provide citizens with a basis for relying on journalistic accounts.

What would this journalism of objective method rather than aim look like? What should citizens expect from the press as a reasonable discipline of reporting?

As we listened to and studied the thoughts of journalists, citizens, and others who have thought about the news, we began to see a core set of concepts that form the foundation of the discipline of verification. They are the intellectual principles of a science of reporting:

1. Never add anything that was not there.
2. Never deceive the audience.
3. Be transparent as possible about your methods and motives.
4. Rely on your own original reporting.
5. Exercise humility.

Let's examine them one at a time.

An important parallel to the new journalism of assertion is the rise of fiction posing as nonfiction. It has had different names in different areas. On television, producers have called it docudrama. It is making stuff up. In some cases it is just lying. Oddly, there are some in journalism who believe that narrative nonfiction, the use of literary style to tell nonfiction, needs to blend into the area of invention. A long list of some of the best narrative stylists in nonfiction also doesn't see the problem. But the problem is growing. Ironically, it is also unnecessary. Narrative nonfiction doesn't need to invent to succeed. Mark Kramer at Boston University offers a strong set of rules which any deadline journalist or literary stylist could live with; for example, he speaks to interior monologues: "No attribution of thoughts to sources unless the sources have said they'd had those very thoughts." Steve Lopez, a writer at Time Inc., says the rules and devices may differ depending on the style of story, but the principle does not: If it isn't verified, don't use it. Perhaps John McPhee, a *New Yorker* writer noted for the strength of his narrative style, summarized the key imperatives best: "The nonfiction writer is communicating with the reader about real people in real places. So if those people talk, you say what those people said. You don't say what the writer decides they said. . . . You don't make up dialogue. You don't make a composite character. . . . And you don't get inside their [characters'] heads and think for them. You can't interview the dead. Where writers abridge that, they hitchhike on the credibility of writers who don't."¹⁶

In 1980, John Hersey, the Pulitzer Prize-winning author of *Hiroshima*, the story of the effects of the first use of the atomic bomb in

World War II, attempted to articulate a principle to help make journalism compelling without crossing the line between fact and fiction. In "The Legend on the License," Hersey advocated a strict standard: Never invent. Journalism's implicit credo is "nothing here is made up."¹⁷

Today, we think Hersey's standard of "never invent" needs to be refined. In his book *Midnight in the Garden of Good and Evil*, John Berendt used composite characters and condensed several events into one for dramatic effect. Ronald Reagan biographer Edmund Morris believed he could make the former president's life more vivid if he, the biographer, were a character in it. But reconstructing dialogue, using composite characters, compressing events, and moving people in time are inventions.

Along with Roy Peter Clark, the senior scholar at the Poynter Institute in St. Petersburg, Florida, we developed an updated set of ideas for journalists trying to navigate the shoals lying between fact and fiction.

Do Not Add. *Do not add* simply means do not add things that did not happen. This goes further than "never invent" or make things up, for it also encompasses rearranging events in time or place or conflating characters or events. If a siren rang out during the taping of a TV story, and for dramatic effect it is moved from one scene to another, it has been added to that second place. What was once a fact becomes a fiction.

Do Not Deceive. *Do not deceive* means never mislead the audience. Fooling people is a form of lying and mocks the idea that journalism is committed to truthfulness. This principle is closely related to *do not add*. If you move the sound of the siren and do not tell the audience, you are deceiving them. If acknowledging what you've done would make it unpalatable to the audience, then it is self-evidently improper. This is a useful check. How would the audience feel if they knew you moved that sound to another point in the story to make it more dramatic? Most likely they would feel the move was cheesy.

Do not deceive means that if one is going to engage in any narrative or storytelling techniques that vary from the most literal form of eyewitness reporting, the audience should know. On the question of quoting people, a survey of journalists that we conducted found broad

agreement. Except for word changes to correct grammar, the overwhelming majority of journalists believe some signal should be sent to audiences—such as ellipses or brackets—if words inside quotation marks are changed or phrases deleted for clarity.¹⁸

If a journalist reconstructs quotes or events he did not witness, *do not deceive* suggests the audience should know these specific quotes were reconstructed and how these secondhand quotes were verified. A vague author's note at the beginning or end of a book or story that tells audiences merely "some interviews involved reconstruction" doesn't come close to adequate. Which interviews? Reconstructed how? These kinds of vague disclosures are not disclosures at all. They really amount to evasions.

We believe these two notions, *do not add* and *do not deceive*, serve as basic guideposts for journalists navigating the line between fact and fiction. But how as citizens are we to identify which journalism to trust? Here some other concepts help.

Transparency. If journalists are truth seekers, it must follow that they be honest and truthful with their audiences, too—that they be truth presenters. If nothing else, this responsibility requires that journalists be as open and honest with audiences as they can about what they know and what they don't. How can you claim to be seeking to convey the truth if you're not truthful with the audience in the first place?

The only way in practice to level with people about what you know is to reveal as much as possible about sources and methods. How do you know what you know? Who are your sources? How direct is their knowledge? What biases might they have? Are there conflicting accounts? What don't we know? Call it the Rule of Transparency. We consider it the most important single element in creating a better discipline of verification.

Most of the limitations journalists face in trying to move from accuracy to truth are addressed, if not overcome, by being honest about the nature of our knowledge, why we trust it, and what efforts we make to learn more.

Transparency has a second important virtue: it signals the journalist's respect for the audience. It allows the audience to judge the valid-

ity of the information, the process by which it was secured, and the motives and biases of the journalist providing it. This makes transparency the best protection against errors and deception by sources. If the best information a journalist has comes from a potentially biased source, naming the source will reveal to the audience the possible bias of the information—and may inhibit the source from deceiving as well.

Transparency also helps establish that the journalist has a public interest motive, the key to credibility. The willingness of the journalist to be transparent about what he or she has done is at the heart of establishing that the journalist is concerned with truth.

The lie, or the mistake, is in pretending omniscience or claiming greater knowledge than we have.

How does the Rule of Transparency work? It starts at the top, where it may mean public meetings, speeches, or editors' columns, especially during controversy. At the *Washington Post*, editor Leonard Downie wrote a column explaining the separation between news and editorial pages the day the paper made its presidential endorsement. It flows down to individual stories, where it may demand specificity. If a piece reports "experts say," to how many did the reporter actually talk?

Key is this: The Rule of Transparency involves the journalist asking for each event, "What does my audience need to know to evaluate this information for itself? And is there anything in our treatment of it that requires explanation?"

It is the same principle as governs scientific method: explain how you learned something and why you believe it—so the audience can do the same. In science, the reliability of an experiment, or its objectivity, is defined by whether someone else could replicate the experiment. In journalism, only by explaining how we know what we know can we approximate this idea of people being able, if they were of a mind to, to replicate the reporting. This is what is meant by objectivity of method in science, or in journalism.

Even as he began to develop doubts about whether journalists could really sort out the truth, Walter Lippmann recognized this. "There is no defense, no extenuation, no excuse whatsoever, for stating six times that Lenin is dead when the only information the paper possesses is a report that he is dead from a source repeatedly shown to be unreliable. The news, in that instance, is not that 'Lenin is Dead' but 'Helsingfors Says

Lenin is Dead.' And a newspaper can be asked to take responsibility of not making Lenin more dead than the source of the news is reliable. If there is one subject on which editors are most responsible it is in their judgment of the reliability of the source."¹⁹

Unfortunately, the idea of transparency is all too frequently violated. Too much journalism fails to say anything about methods, motives, and sources. Network television newscasts, as a matter of course, will say simply "sources said," a way of saving valuable time on the air. It is also a mistake. It is a standing rule in most offices on Capitol Hill, similarly, that staffers will be quoted anonymously at all times. As citizens become more skeptical of both journalists and the political establishment, this is also a disservice to the public and brings journalism under greater suspicion.

Misleading Sources: A Corollary to Transparency. The Rule of Transparency also suggests something about the way journalists deal with their sources. Obviously journalists should not lie to or mislead their sources in the process of trying to tell the truth to their audiences.

Unfortunately, journalists, without having thought the principle through, all too often have failed to see this. Bluffing sources, failing to level with sources about the real point of the story, even simply lying to sources about the point of stories are all techniques some journalists have applied—in the name of truth seeking. While at first glance candor may seem a handcuff on reporters, in most cases it won't be. Many reporters have come to find that it can win them enormous influence. "I've found it is always better to level with sources, tell them what I'm doing and where I'm going," then *Boston Globe* political correspondent Jill Zuckman told us. *Washington Post* reporter Jay Matthews makes a habit of showing sources drafts of stories. He believes it increases the accuracy and nuance of his pieces.²⁰

At the same time, journalists should expect similar veracity from their sources. A growing number of journalists believe that if a source who has been granted anonymity is found to have misled the reporter, the source's identity should be revealed. Part of the bargain of anonymity is truthfulness.

There is a special category of journalists misleading sources. It is

called masquerading. This occurs when journalists pose as someone else to get a story by misleading sources. The "undercover" reporting technique is nothing new. Muckrakers like Nellie Bly, who among other remarkable achievements posed as an inmate in an insane asylum to expose mistreatment of the mentally ill, used masquerade at the beginning of the twentieth century. Television today frequently uses masquerade and tiny hidden cameras to expose wrongdoing.

What does avoiding deception and being transparent with audiences and sources suggest about masquerade? We believe these ideas do not preclude journalists' use of masquerade. Rather, they suggest that journalists should use a test similar to the concepts justifying civil disobedience in deciding whether to engage in the technique. Citizens should also apply this test in evaluating what they think of it. There are three steps to this test:

1. The information must be sufficiently vital to the public interest to justify deception.
2. Journalists should not engage in masquerade unless there is no other way to get the story.
3. Journalists should reveal to their audience whenever they mislead sources to get information, and explain their reasons for doing so, including why the story justifies the deception and why this was the only way to get the facts.

With this approach, citizens can decide for themselves whether journalistic dishonesty was justified or not. And journalists, in turn, have been clear with the citizens to whom they owe their first loyalty.

We have dealt at length with this notion of a more transparent journalism because it will help over the long run to develop a more discerning public. This is a public that can readily see the difference between journalism of principle and careless or self-interested imitation. In this way, journalists can enlist the new power of the marketplace to become a force for quality journalism.

This transparency means embedding in the news reports a sense of how the story came to be and why it was presented as it was. During the reporting on the Clinton-Lewinsky scandal, the *New York Times* did just this in explaining to readers why a story about the allegations of a woman named Juanita Broaddrick was held for a time and then

played on page 16. Broaddrick was alleging that President Clinton had forced himself sexually on her roughly twenty-one years earlier in Arkansas, though she had not made the allegations at the time, or even earlier in the Lewinsky scandal. Nor was she pressing the case legally.

Reporters Felicity Barringer and David Firestone interviewed their own managing editor, Bill Keller, and included his explanation in the story: The merits of Broaddrick's allegations are ultimately "probably unknowable . . . legally it doesn't seem to go anywhere. . . . Congress isn't going to impeach him again . . . and 'frankly we've all got a bit of scandal fatigue,'" Keller reasoned in the story. Some citizens might disagree, but at least they now had some explanation for the news they were receiving, not some false sense that news is an objective reality rather than the product of human judgment.²¹

Two elements are important here. First, the reporters felt it was important to let readers know how news decisions were made and just what standards are applied to those decisions. Second, the atmosphere inside the newsroom of the *New York Times* was such that the reporters felt comfortable questioning the managing editor's decision, pen in hand, with the intention of quoting his comments in the story.

Originality. Beyond demanding more transparency from journalism, citizens and journalists can also look for something else in judging the value of a news report. Michael Oreskes, the Washington bureau chief of the *New York Times*, has offered this deceptively simple but powerful idea in the discipline for pursuing truth: Do your own work.

Throughout the sex and legal scandal involving President Bill Clinton and White House intern Monica Lewinsky, news organizations found themselves in the uncomfortable position of what to do with often explosive exposés from other news organizations that they could not verify themselves. Usually, to make matters more complicated, these were based on anonymous sources, meaning the news organization had to take even greater responsibility for the veracity of the story than if they were quoting someone. Based on such sourcing, three different news organizations reported that a third-party witness had seen the president and Lewinsky in an intimate encounter—stories that were later found to be inaccurate. Should a news organization report

these exposés because they know others might, and that the story will be, in the popular phrase, "out there"?

Oreskes concludes the answer is an adamant no. "The people who got it right were those who did their own work, who were careful about it, who followed the basic standards of sourcing and got their information from multiple sources. The people who worried about what was 'out there,' to use that horrible phrase that justifies so many journalistic sins, the people who worried about getting beaten, rather than just trying to do it as well as they could as quickly as they could, they messed up."²²

Originality is deeply grounded in journalism. Some ancient axioms of the press say much the same thing: "When in doubt leave it out." The tradition of "matching" stories is rooted in the same idea. Rather than publishing another news outlet's scoop, journalists have tended to require one of their reporters to call a source to confirm it first. In part, this was a way of avoiding having to credit the other news organization. Yet it had another more important effect. Stories that couldn't be independently confirmed would not be repeated.

Humility. A fifth and final concept is that journalists should be humble about their own skills. In other words, not only should they be skeptical of what they see and hear from others, but just as important, they should be skeptical about their ability to know what it really means. Jack Fuller again has suggested that journalists need to show "modesty in their judgments" about what they know and how they know it.²³ A key way to avoid misrepresenting events is a disciplined honesty about the limits of one's knowledge and the power of one's perception.

An incident unearthed in our forum on diversity helps illustrate the point. The event, described by then *New York Times* religion writer Laurie Goodstein, was a Pentecostal prayer revival on the steps of the U.S. Capitol. The gathering featured faith healings, calls for school prayer, condemnations of abortion and homosexuality—a fairly typical evangelical revival meeting. A reporter for a newspaper covering the event related all this, Goodstein explained, but added this sentence: "At times, the mood turned hostile toward the lawmakers in the stately white building behind the stage." Then the reporter quoted a Christian

radio broadcaster speaking from the stage: "Let's pray that God will slay everyone in the Capitol."²⁴

The reporter assumed the broadcaster meant *slay* as in "kill."

But, Goldstein explained, "any Pentecostal knows that asking God to slay someone means to slay in spirit, slay in the sense of holy spirit, praying that they are overcome with love for God, for Jesus."

The problem was the reporter didn't know, didn't have any Pentecostals in the newsroom to ask, and was perhaps too anxious for a "holy shit" story to double-check with someone afterward whether the broadcaster was really advocating the murder of the entire Congress.

"It made for a very embarrassing correction," said Goodstein. It also makes a strong case for the need for humility.

Together, these five ideas amount to a core philosophy that frames the discipline of verification. They also establish a closer relationship between the journalist and the citizen, which is mutually beneficial. By employing the powerful tools of transparent, narrative storytelling, the journalist engages citizens with important information they might otherwise pass by and does so without sacrificing factual integrity. At the same time, by being more open about his or her work, the journalist is encouraged to be more thoughtful in acquiring, organizing, and presenting the news.

TECHNIQUES OF VERIFICATION. Obviously, these concepts are not specific enough to constitute "a scientific method" of reporting. That is for individual journalists to refine—as long as they are clear about it. But we would like to offer some concrete methods from journalists around the country. While not encyclopedic, any journalist could fashion a superb method of gathering and presenting news from adapting the following few techniques.

Skeptical Editing. Sandra Rowe, the editor of the *Oregonian* in Portland, Oregon, employs a system at her paper that she and executive editor Peter Bhatia call "prosecutorial editing." The term may be an unfortunate one. Reid MacCluggage, editor and publisher of *The Day* in New London, Connecticut, has suggested a better one, "skeptical

editing."²⁵ Regardless, the concept is important for journalists and citizens to understand.

The approach involves adjudicating a story, in effect, line by line, statement by statement, editing the assertions in the stories as well as the facts. How do we know this? Why should the reader believe this? What is the assumption behind this sentence? If the story says that a certain event may raise questions in people's minds, who suggested that? The reporter? A source? A citizen?

Amanda Bennett, an *Oregonian* managing editor, says the notion—which she learned at the *Wall Street Journal*—is designed for "rooting out not so much errors of fact but unconscious errors of assertion and narrative—to root out the things that people put in because 'they just know it's true.'"²⁶

If a story says most Americans now have a personal computer, the editor would ask for verification. If a story said "according to sources," the editor would ask, "Who are the sources? Is there more than one?" If there was only one, the story would have to say so.

If a story said that presidential candidate Al Gore's flip-flop on returning six-year-old shipwreck survivor Elián González to Cuba raises questions about his ideological consistency, the editor would ask, "What questions?" and "In whose mind?" If the answer is merely the reporter and his friends, the story would either have to say so, or that line would come out.

Whenever possible, said editor Rowe, this kind of editing involves the editor and the reporter sitting side by side, and the reporter producing original material. "The more of it we did, the more we were sending true fear" through the newsroom, said Rowe.²⁷ Bennett began teaching it in the newsroom in front of groups of reporters and editors. "People didn't know it was okay to ask these questions," Bennett said. The purpose, in large part, is to "make that role of asking questions okay, and to make it conscious." Rather than including more in stories, more was taken out, unless it could be absolutely verified.²⁸

The technique, Bennett and Rowe believe, made editors and reporters better and more thorough. The objective of the *Oregonian's* skeptical editing is to create an atmosphere in which people can question a story without questioning the integrity of the reporter. It

becomes part of an atmosphere of open dialogue in a newsroom, which goes bottom-up as well as top-down.

Accuracy Checklist. David Yarnold, the executive editor of the *San Jose Mercury News*, has developed something he has called an accuracy checklist.

As they move through stories, editors have to answer the following questions among others:

- Is the lead of the story sufficiently supported?
- Has someone double-checked, called, or visited all the phone numbers, addresses, or Web addresses in the story? What about names and titles?
- Is the background material required to understand the story complete?
- Are all the stakeholders in the story identified and have representatives from that side been contacted and given a chance to talk?
- Does the story pick sides or make subtle value judgments? Will some people like this story more than they should?
- Is anything missing?
- Are all the quotes accurate and properly attributed, and do they capture what the person really meant?

The checklist, which Yarnold printed and some editors posted on their computers, began as an experiment. Yarnold gave one team of thirty reporters and editors a checklist to use in producing stories. The group was able to follow the checklist about 80 percent of the time and required 20 percent fewer corrections than another team that worked without the checklist.

Corrections are a fairly subjective measurement, and some editors consider Yarnold's checklist too mechanistic. Still, who would quarrel with the questions being asked? This is a simple, forceful step toward an objectivity of method.

Assume Nothing. David Protess, a professor at Northwestern University's Medill School of Journalism, has used the cases of death row inmates to teach journalism students the importance of verifying presumed facts.

Among the lessons: Don't rely on officials or news accounts. Get as close as you can to primary sources. Be systematic. Corroborate.

Each year Protess receives thousands of letters from people on death row who claim wrongful conviction. Each year he chooses a handful that he assigns his students to examine. In 1999, the appeal of Anthony Porter was one of the cases Protess used to introduce his aspiring journalists to the value of skepticism.

"Maybe the best way to understand my method is what I do for the students when they come into my class," Protess explained in an interview when we sought him out. "I draw a set of concentric circles on the blackboard. In the outermost circle are secondary source documents, things like press accounts. . . . The next circle in is primary source documents, trial documents like testimony and statements. The third circle in is real people, witnesses. We interview them to see if everything matches what's in the documents. We ask them questions that may have come up looking at the documents. And at the inner circle are what I call the targets—the police, the lawyers, other suspects, and the prisoner.

"You'd be surprised how much is in the early documents. There is a lot there, especially early suspects the police passed by."

At the inner circle of the Porter case, Protess and his students found Alstory Simon, a suspect the police quickly overlooked. Using Protess's systematic approach to cross-checking the documents and sources, Protess and his students found a nephew who had overheard Simon confess to the murder on the night of the killings. Simon was ultimately convicted of the crime for which Porter was about to die. On March 19, 1999, Anthony Porter became the fifth prisoner wrongfully convicted of murder in Illinois freed by the work of Protess and his students.

Protess's work is an extraordinary demonstration of the power of methodical journalistic verification.

Tom French's Colored Pencil. If Protess's method is exhaustive, Tom French's is wonderfully simple. French specializes in writing long, deep narrative nonfiction for the *St. Petersburg Times* in Florida. He won the 1998 Pulitzer Prize for Feature Writing. He also writes on deadline.

French has a test to verify any facts in his stories. Before he hands a piece in, he takes a printed copy and goes over the story line by line

with a colored pencil, putting a check mark by each fact and assertion in the story to tell himself that he has double-checked that it is true.

Anonymous Sources. As citizens, we all rely on other sources of information for most of what we know. The journalists monitoring the world on our behalf also most often depend on others for the details of their reporting. One of the earliest techniques adopted by journalists to assure us of their reliability was the practice of providing the source of their information. Mr. Jones said so and so, in a such and such a speech at the Elks Lodge, in the annual report, etc. Such dependence on others for information has always required a skeptical turn of mind for journalists. They early on adopt the reminder: "If your mother says she loves you, check it out." If the source of the information is fully described, the audience can decide for itself whether the information is credible. In recent years as dependence on anonymous sources for important public information has grown—as in the case of the Clinton-Lewinsky story—journalists learned the importance of developing rules to assure themselves and their audience they were maintaining independence from the anonymous sources of their news.

Joe Lelyveld, executive editor of the *New York Times*, required that reporters and editors at the *Times* ask themselves two questions before using an anonymous source:

1. How much direct knowledge does the anonymous source have of the event?
2. What, if any, motive might the source have for misleading us, gilding the lily, or hiding important facts that might alter our impression of the information?

Only after they are satisfied by the answers to these questions will they use the source. And then, to the maximum degree possible, they have to share with the audience information to suggest how the source was in a position to know ("a source who has seen the document," for example) and what special interest that source may have ("a source inside the Independent Prosecutor's office," for example). This effort at more transparency was a crucial factor in the degree to which the audience could judge for themselves how much credence to give the

report, but more important it signaled the standards of the organization serving up their news.

Deborah Howell, the Washington editor of the *Newhouse* newspapers, has two other rules for anonymous sources that reinforce Lelyveld's.

1. Never use an anonymous source to offer an opinion of another person.
2. Never use an anonymous source as the first quote in a story.

These serve as two practical instructions for how to write stories, even after you have decided to use what an anonymous source is offering.

TRUTH'S MULTIPLE ROOTS. In the end, everyone in the journalistic process has a role to play in the journey toward truth. Publishers and owners must be willing to consistently air the work of public interest journalism without fear or favor.

Editors must serve as the protector against debasement of the currency of free expression—words—resisting effort by governments, corporations, litigants, lawyers, or any other newsmaker to mislead or manipulate by labeling lies as truth, war as peace.

Reporters must be dogged in their pursuit, and disciplined in trying to overcome their own perspective. Longtime Chicago TV newscaster Carol Marin explained it this way at one committee forum: "When you sit down this Thanksgiving with your family and you have one of the classic family arguments—whether it's about politics or race or religion or sex—you remember that what you are seeing of that family dispute is seen from the position of your chair and your side of the table. And it will warp your view, because in those instances you are arguing your position. . . . A journalist is someone who steps away from the table and tries to see it all."²⁹

And, if journalism is conversation, in the end that conversation includes discourse among citizens as well as with those who provide the news. The citizens, too, have a role. They must, of course, be attentive. They also must be assertive. If they have a question or a problem, they should ask it of the news organization. How do you know this? Why did you write this? What are your journalistic principles? These are fair questions to ask, and citizens deserve answers.

Thus journalists must be committed to truth as a first principle and must be loyal to citizens above all so they are free to pursue it. And in order to engage citizens in that search, journalists must apply transparent and systematic methods of verification. The next step is to clarify their relationship to those they report on.

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Fourteen

COURT REPORTING

THE media report court cases because, as the ears and eyes of the public, they have a duty to ensure that justice is not only done, but seen to be done.

That is the theory, and there are still a few newspapers that try to cover every case that comes up in the local magistrates' courts. Overall, however, only a tiny fraction of the thousands of cases that come to court each day are reported. The notion that the media should report every case as a public service has long gone, and the relatively few court stories that do get published or broadcast are chosen for their newsworthiness alone.

The reasons are simple. Newsrooms have not the time, the money or the staff to put people in every court day after day on the off-chance something worth publishing turns up. If they do send a reporter, who may be someone specialising in courts or one of several general reporters covering them on a rota basis, they will be expected to cover a number of courts sitting simultaneously, picking up the best stories and ignoring the rest.

Many newspapers cover courts only when they know there are particularly good cases coming up. Some follow the example of local radio stations, farming the job out to court reporting agencies that are paid a retainer or a fee based on the number of stories published.

Some make do with simple lists of decisions supplied by the court clerks, perhaps picking up extra details afterwards from solicitors or other parties involved - a potentially dangerous practice, because there is little legal protection if they get anything wrong. Some have given up and abandoned court coverage altogether.

Many regret the media's declining interest in day-to-day court cases. They can be the source of excellent stories.

It's a lottery

Whether a case gets reported is clearly very much a matter of chance. It depends, among other things, on whether there is a reporter in court at all, whether they are in the right court when the case comes up, whether they think it is interesting and relevant to their audience, whether there are better cases around competing for their attention, and, after all that, whether once it is written it gets past the news selection process back in the office. It may strike you as unfair that someone's court appearance gets publicity just because a reporter happened to be around on a thin news day, but that is the reality.

The reduction in court cover and the increasing reliance on outside sources may mean that the only time you go to court in your early days

- Courts
- Inquests
- Tribunals
- Inquiries



Never guess if you can't read your notes.

I said a defendant was supplying cocaine instead of cannabis because I'd abbreviated my shorthand outline, and got into enormous trouble.

KATE BARNEY

Reporter

Lincolnshire Free Press

ESSENTIAL REPORTING



Put lists of lawyers and magistrates in your contacts book, with first names, to save you asking for them each time.

Give each entry a brief description ('fat, glasses') to remind you who is who.

Find out which law firm each solicitor works for, and put its phone number in the book too in case you have queries about a case after it has finished.

Some court reporters build up a picture library of lawyers and magistrates in their contacts book to make identification easier.



Contact suggestion: local historians. Good for background information and ideas for anniversary stories. They are probably researching something which, dusted off, might make a feature.

as a reporter is to get a couple of stories for your training logbook. Nevertheless, day after day hundreds of journalists report on the human dramas that unfold in our courtrooms, and newsdesks expect you to be able to cover courts, if only in an emergency.

This chapter will guide you through the mechanics of doing so. It is not a legal guide: it assumes that you have studied media law and know about the different courts, what happens as a case unfolds, what privilege and contempt mean, and what you can and cannot report.

What follows is written specifically for reporters covering courts in England and Wales, but much will be applicable to those in Scotland and Northern Ireland with different legal systems.

MAGISTRATES & CROWN COURTS

COVERING court is basically the same as reporting any other event: your job is to record what is done and said, select what is important, and write it up in an interesting way. But going to court the first time can be an unnerving experience. The place is full of people you don't know, doing things you don't instantly understand, some of it in language all their own. You are sitting towards the back of a room with poor acoustics, can't make out everything that is being said, and don't know who you would ask for help even if you dared.

The good news is that you are unlikely to be alone at first. You will probably be given the chance to shadow an experienced reporter, who will show you the ropes, introduce you to useful people, and generally keep an eye on you. Watch how they operate and learn fast: it won't be long before you are on your own.

PREPARATION

If you find you are in the diary to do court duty, make sure you know where the court is, when it starts, how to get there, how long it is going to take you and, if you are driving, where you can park.

Ask the newsdesk what it wants. There is no point in covering every tiny motoring conviction if your newspaper is only going to use one or

WHEN AND WHERE

Magistrates courts operate on fixed days throughout the year.

In small areas there may be only one court sitting two or three times a week, whereas in large urban centres a dozen courts might sit simultaneously every weekday.

Occasionally extra courts are added at

short notice - on a Saturday morning, for instance, to remand people arrested the night before.

Crown courts sit every day, and again there may be several operating in the same place at once.

Most courts start around 10am and run until about 4pm with a break for lunch.

two newsy stories. There may be specific cases to look out for: someone arrested and coming up for remand, perhaps, the continuation of a case adjourned the week before or a new one the newsdesk has been tipped off about. You may be asked to check with the magistrates' clerks that these are on the list of scheduled cases.

If there is an on-going case, check the archives for earlier reports and speak to the reporter who covered the case previously. Make sure his or her story was accurate: you don't want to repeat errors.

TAKE:

Notebook: Keep separate notebooks for court. It stops other stories getting mixed up with them and makes it a lot easier if, weeks later, you have search through all your stored notebooks for a particular case (perhaps because a committal you have covered finally ends up in crown court, or, worse, there is a complaint about your story).

Media law book: *McNae* is bulky, heavy and a pain to carry around, but it is very useful for looking things up on the spot instead of floundering around with half-remembered memories of what is legal.

Some form of ID: Carry a press card recognised by the police or at least a letter from your employer identifying you as a bona fide reporter.

A local street map: Handy for checking the spelling and location of defendants' addresses.

EQUIPMENT

Many courts forbid you to record proceedings. Others may allow you to use them so long as you are discreet, don't use recordings for broadcast, and hand them over at the end of the day. Tape recorders are more useful after the case, for interviews outside the courtroom. There is no legal reason why these should not take place in the courthouse corridors or canteen, but some courts are unhappy about reporters doing this and you may have to settle for speaking to people outside.

Carry a camera, though you are forbidden to use one in court and even just looking as if you might can land you in trouble. Bury it deep in your pocket or bag where it can't be seen. If that is not possible, leave it in at reception for collection later.

The law bans photography anywhere within the ill-defined precincts of the court, and that can mean on the steps outside or indeed anywhere that shows the court building in the background. Making drawings is forbidden, too, but artists are allowed to make sketches from memory away from the court.

Switch your mobile phone off or put it in silent mode before you go into court. If it has a built-in camera, don't use it or look as if you might.

COURT REPORTING



Get to know the court ushers and tell them which cases you are interested in. They can let you know if a case changes court rooms so you don't miss out on it.

There is nothing worse than sitting through a dull case to realise the one you wanted has been done next door.

ANDREA HYAM
Reporter
Rutland Times



I learnt never to smile in court, however amusing the case, after being thrown out by a magistrate who told me: 'This isn't a variety performance.'

I still don't know exactly what offence I'd committed, but I left in a very sheepish manner as the rest of the press, the solicitors and the court clerk watched in shock.

RICHARD THOMAS
Presenter
BBC Television

ESSENTIAL REPORTING



Magistrates court lists are liable to change throughout the day as cases are delayed, adjourned or moved from one court to another.

Keeping track of what is on where can be a nightmare.

If you cover a court regularly and build up contact with lawyers and court officials, they can prove very helpful by explaining what is going on.



There is nothing illegal about hanging round the corridors of the court, eavesdropping on conversations between solicitors and clients.

It might give you a hint of what to expect when a case comes up - or warn you that one might be adjourned.

Don't get too close, or you could end up being invited to step outside by an irascible local villain.

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FIRST VISIT

Arrive early, giving yourself plenty of time to check the geography of the place. If you are planning to take pictures, identify the court entrance used by prison vans containing defendants held in custody: their arrival or departure may be the only photo opportunity you get. Identify yourself to reception (you may as well start getting your face known right away) and go through any security check. Then have a look round.

Court buildings vary enormously. Some are small Victorian structures full of wood panelling, obscure offices, courtrooms just big enough to swing a couple of cats in and press benches holding three slender reporters at best. Others are vast modern edifices, designed to accommodate multiple courts and trials attracting large numbers of media people. There may be overflow rooms where the press can watch proceedings by video-link. If there is more than one courtroom, each will be numbered. Cases will be split among them, with perhaps one handling all the minor motoring offences, a second committals, a third adjournments, others full trials (these are the ones you are most likely to be interested in). One courtroom may be reserved as a youth court, another for family proceedings.

Find the press room if there is one, check if there is a phone and (if you have time) whether there is anywhere to get a cup of coffee. Most importantly, visit the clerks' office and find out what is going on.

COURT LISTS

Magistrates' clerks compile a daily list of cases scheduled for hearing. It should be posted outside the court and a copy made available to you as soon as it is ready, but this may not be until just before the courts begin business. Some courts are more helpful than others. If you are lucky there will be free copies for everyone who wants one; if not, you may have to pay for a copy, or share one with other reporters. Probation officers always have a copy, and friendly ones may share theirs with you.

Crown courts compile lists days or weeks ahead, and post these up outside the court on the day. Up-to-date details of all cases listed nationally are available on-line.

The case list will tell you the name and age of the defendant, what he or she is charged with, the Act under which the offence falls, and who brought the prosecution. Some courts also give defendants' addresses, details of where and when offences are alleged to have taken place, and an indication of maximum penalties that can be imposed. If you are covering magistrates courts, there may be some suggestion of which court will handle which cases and whether they are scheduled for the morning or afternoon session.

Don't assume the order that names appear on the lists is the order in which defendants will appear in court. That will depend on when they

COURT REPORTING

and any witnesses turn up (many arrive late) and when prosecuting and defence solicitors are available (many are involved in several cases in different rooms, and getting the right ones in the right place at the same time is a problem).

Crown courts tend to be more disciplined, with cases clearly scheduled and running to timetable. Judges take a very dim view of their time being wasted.

Armed with the lists, go through them to see which cases look particularly interesting. Ask the clerks which court these cases are likely to be in and when, and make sure you are there when the first one starts.

If no cases stand out, it is a question of checking what is on in each court, and you may spend the day hopping from one to the next in search of the best stories.

Don't be afraid to ask clerks and lawyers if cases are likely to go ahead: you don't want to spend ages waiting for one that is adjourned after only a few minutes.

WHO'S WHO

The foyer and corridors will be alive with people. The ones in a hurry are court officials, lawyers, police, probation officers. Those hanging around are defendants, witnesses and members of the public, some waiting to see specific cases involving friends and relatives, some just dropping by for a morning's entertainment.

Inside a magistrates' courtroom, you will find:

The magistrates: A bench of at least two (unless there is a salaried district judge, who sits alone) and there can be up to seven. One will be the chair for the day. They sit at a raised desk at the front. Nearby is a room to which they can retire to discuss cases in private or relax out of the public eye.

The magistrates' clerks: One or more, in charge of the court operation and offering legal advice to the magistrates. They sit at a desk in front of the bench, surrounded by files and legal tomes. Beside them will be a stenographer who records everything that goes on.

Lawyers: They sit (or stand, when addressing the court) facing the clerks and the bench, prosecution on one side, defence on the other. Some will be involved in the current case, others may be waiting their turn. Most will be solicitors, but you may see the occasional barrister.

Defendants: If they have been held in custody, they will be brought from the cells to stand in the dock, an enclosed area somewhere near the centre of the court behind the lawyers. Otherwise they will join their defence solicitor at the front. If the case is fairly trivial - a minor motoring offence, perhaps - they may not appear at all, merely sending a letter to the court admitting their guilt and explaining any mitigating circumstances. This should be read out by the clerk.



Talking to criminals while covering court led to my only instance of chequebook journalism.

A villain called McVicar claimed in his autobiography to be the first man to escape from Durham Jail.

I knew he wasn't: that honour belonged to a lad called Ronnie Heslop, known for ever after as Rubberbones because he had slipped through a painstakingly-excavated grill in his cell floor into the room below.

Ronnie, proud of his feat and furious at McVicar's claim, willingly talked to me, posed by the river he'd swum to escape the police, but refused to wear his trademark rag-and-bone man's hat - until I offered him a fiver.

It took some getting back on exes.

MIKE AMOS

Columnist

The Northern Echo

ESSENTIAL REPORTING

 *The office junior, fresh from a training course, is almost invariably more up-to-date on media law than the rest of the staff, many of whom studied it when the 1981 Contempt Act was still a gleam in Sir Michael Havers' eye.*

Don't be afraid to speak up if you think they are about to do something illegal.

Far better to be thought a bit pushy than to confess later, when the libel writ has arrived, that you knew all along it was a mistake but were too frightened to say so.

It works both ways: there are some ultra-cautious editors out there who aren't aware of just how much protection is available to them.

Urge them gently to be a bit bolder.

Very gently.

Witnesses: When called to appear, they give their evidence from the witness box, usually placed towards the front of the room on one side where they can be seen by everyone else. Don't talk to witnesses waiting outside the court-room: they are not supposed to know what has been said inside, and you could be suspected of telling them. In addition, what they have said to you might influence their subsequent evidence.

Ushers: Responsible for shepherding defendants and witnesses into court, fetching and carrying and generally keeping order. They are the ones in the long black flowing gowns (which some magistrates' clerks and solicitors wear, too). They know what's going on and can be very helpful.

Probation officers: Probably sitting on a bench on one side.

The public: Seated in the public gallery at the back, usually near the entrance so that people can come and go with the minimum interruption to proceedings.

The press: You have no right to special treatment, but most courts provide a bench on one side for the media, often shared with the probation service. If there are other reporters around, make the most of them. Pick their brains. They will be willing to tell you who is who, where the loos are and which is the best nearby pub. Don't expect them to tell you which cases are worth covering or how to write your story, though if you meet regularly you may well develop some system of sharing information that benefits you both.

The set-up at a crown court is very similar, except that here you will find:

The judge: Seated on the bench, probably be-wigged and gowned, possibly accompanied by one or more magistrates observing what goes on and sharing some of the decision-making.

YOU DON'T HAVE TO BOW

Courts take the administration of justice seriously, and expect you to do the same:

Dress appropriately. They won't actually throw you out if you turn up in jeans and a fuck tee-shirt, but you will find them less than co-operative. Jacket and tie for men, smart outfit for women. No hats or bare shoulders.

Keep your voice down. If you must talk, whisper. Don't hold long conversations with your mate beside you. Don't eat or drink. Don't yawn openly, however tedious it is.

Stand up when the judge or magistrates enter and leave (it is customary for

solicitors and court officials to bow, but you don't have to).

Come and go as quietly as you can, preferably when there is a lull in proceedings. Don't leave your place while the oath is being taken.

Don't sneak a look at probation officers' files when they are not around, however tempting it may be. Information in them is confidential and certainly not reportable as part of the proceedings.

It is a time-honoured tradition for reporters to carve their initials on the press bench. Don't get caught doing it.

COURT REPORTING

The jury: Present only in some serious contested cases, the jurors sit on one side or in the centre where they can see what is going on.

Barristers: They present the prosecution and defence in most crown court cases, although some solicitors are allowed to appear. Barristers are the ones in wigs and gowns.

REPORTING THE PROCEEDINGS

Accuracy is vital, shorthand is invaluable, and you have got to know the law. That goes for every case you cover, whether it is a simple two-minute remand or a complex trial lasting weeks.

Being organised helps, too. Start each case on a new page of your notebook, dated and clearly identified by the defendant's name. Make it clear who has said what by putting each speaker's name or initials in the margin beside their words. Leave space at the end for additional material to be added afterwards. If you are challenged later about the accuracy of your report, a tidy, well-annotated notebook looks a lot better than a battered court list covered in scribbles.

Be patient. Justice moves slowly and there are occasions when it seems to be at a standstill or going backwards. A lot of your time will be spent waiting while cases are organised, solicitors are found, adjournments are negotiated and magistrates deliberate.

Use your time to write up cases that have already taken place, or to chat with other people in the same boat. Everyone at court - ushers, police, the canteen assistant, the villains waiting outside - is a potentially useful contact.

THE ESSENTIALS

Whatever kind of case you are covering, some basic details are essential for your story. You need to include:

The name of the court.

The defendant's name: First name (or the one they are known by) and surname. Ignore middle names, though they may be given in full on the court list.

The defendant's age: This should be on the court list (you may have to work it out from the date of birth). It is important that you know whether a teenage defendant is legally a young person or an adult. It is news if someone committed an offence or is appearing in court on their birthday.

The defendant's address: It will be on the court list, but check this against the address given in court, because the defendant may have moved. Giving the address is vital to avoid confusion with other people of the same name who could sue you if people think they are the guilty party. Most newspapers omit house numbers (easily misprinted, and they



As a young and inexperienced reporter, I left a courtroom halfway through a trial and was approached outside by a girl who asked me what was going on.

I told her. Then an usher came by and asked why I was talking to a witness. I had to give evidence of my misdemeanour on oath before the magistrates (a truly terrifying experience), the trial was abandoned, and I was lucky not to be done for contempt.

SKIP WALKER

Editor
Wiltshire &
Gloucestershire Standard



The policeman taking details of a woman involved in a road accident said: 'You won't want to be bothered by the press, will you?'

She was one of my reporters.

JOHN MURPHY

Editor
Evesham Journal

ESSENTIAL REPORTING



Take a walk outside the court when there's a break.

Hangin' around will be all the local villains and their girlfriends, probably wreathed in smoke.

Get to know them. They're unlikely to confess their crimes to you, but they can be a fund of human interest stories about life in parts of town you may rarely visit.

And if they learn to trust you, they could be useful contacts when you want to investigate the seedier side of life.



Contact suggestion: Youth workers. Busy behind the scenes running projects to keep youngsters occupied and out of trouble, they are well in touch with the teenage criminal fraternity and will tip you off when the latest recreational drug hits town.

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spotlight homes that might be targeted by thieves or people intent on revenge) but will insist on street names unless the defendant lives outside the circulation area, in which case a village name or locality will do. You may come across people referred to in court as *of no fixed abode* (which you should translate into *of no fixed address* or, better still, *homeless*).

The charge or charges: Check that what is read out in court is the same as on the court list. Charges get amended or dropped altogether. New ones get added at the last minute. It is up to you to make sure the facts in your story are accurate. Note when and where offences took place.

The plea: The defendant will be asked whether they admit or deny the charge when it is first read out. A not-guilty plea must be reported, but you can sometimes leave a guilty plea out if it is implicit in the way you have written your story.

The verdict, if a not-guilty plea: announced by the chair of the bench after hearing the evidence.

The sentence, if guilty: If sent to crown court for sentence, say where; if jailed, say how long for and whether multiple sentences are concurrent or consecutive. Give details if all or part of a sentence is suspended. If the defendant is fined, say how much and mention any orders for costs, compensation or restitution.

Adjournment, if any, why, and how long for. Say whether the defendant is remanded in custody or on bail, and if bailed, on what conditions.

Those are the minimum details you will need to write even the simplest story. If you haven't got them all, ask. Wait until the case is over or the magistrates have retired to consider things, and approach the clerk for names, addresses, and anything else you don't know. Solicitors will probably be helpful too. There is no reason why you should not question defendants once they have left the courtroom, but be prepared for them to start arguing whether their story should be reported at all, which could turn nasty

There is much more information available, of course, and how much you use depends on what the story is worth. You may not be able to turn what looked like being a routine one-paragraph short into a potential front-page lead. If that happens, you look silly with only the bare essentials in your notebook.

THE DETAILS

Record as much as you can about:

The case: Who did what, where, when, why and how. Note the prosecution claims, the defence's response, the defendant's explanation, any witness statements and comments from magistrates as the case unfolds. Get accurate quotes from all of them if possible.

REMEMBER THE RESTRICTIONS

Court orders: There may be orders banning or restricting your report.

Don't assume, for example, that a Section 39 order forbidding the identification of a young person has not been made just because you did not hear it or were not around at the time.

Some courts make such orders automatically or with little more than a nod. If in doubt, ask the clerk whether any orders have been made and, if so, exactly what is covered and why. Ignorance is no defence.

Contempt is a danger if you report things said outside open court or in the absence of the jury – guilty pleas to other charges, plea bargains, arguments about the admissibility of evidence, details of previous convictions.

Absolute privilege covers only what is said during the proceedings. Libellous accusations made outside carry no protection.

Remember that your stories have

absolute privilege so long as they are fair, accurate and contemporaneous.

That means publishing them at the first available opportunity. Don't leave stories lying in your notebook for days.

Qualified privilege covers non-contemporaneous court stories.

This means that as well as being fair and accurate, their publication must be in the public interest, without malice and subject upon request to 'a reasonable letter or statement of explanation or contradiction'.

This has implications for newspaper websites, where reports may remain accessible long after the public interest has evaporated. Stories left on the web might also be seen to be in contempt if a case goes to re-trial and new jurors could access them.

Reports of preliminary hearings of cases which could end up in the crown court are severely restricted by the Magistrates Courts Act.

The defendant: Occupation, marital status, children – anything that might add colour to your story or give you a different angle. Are they on legal aid? What are they wearing? How do they behave? Are they distraught, hostile, indifferent to their fate? Do they respond to questioning readily or in a whisper? How do they react to the court's decision – do they give the magistrates a V-sign or break down in tears?

Magistrates or judge: Their names (they are not allowed to remain anonymous) and any comments when delivering a verdict or passing sentence.

Lawyers: Their names and, in the case of the prosecution, who they represent. By no means all cases are handled by the Crown Prosecution Service. Trading standards, health officers, transport police, the NSPCC and RSPCA are among other bodies who regularly prosecute.

Witnesses: Names, plus ages and addresses if known.

The jury, if one is present. You are not allowed to identify or question members of the jury about how decisions are reached, though it may be permissible to ask general questions about, for example, the wisdom of a prosecution being brought. You should note jurors' general behaviour (*the jury was visibly shocked at the photos...*) and whether they convict on a unanimous or majority verdict (though the fact that someone is acquitted by a majority is normally not reported for legal reasons).



I was set upon in a department store by a furious old lady who announced venomously: 'I hate and despise you, you vindictive, horrible little man.'

My sin? Working for the local paper, which years earlier had reported that a member of her family had been sent to jail.

I had nothing to do with the story, but it made no difference. She hated me.

BRIAN TILLEY
Deputy editor
Hexham Courant



If you don't understand, ask. Too many people think it is a sign of weakness. It isn't.

The real sign of weakness is being too feeble to ask.

PAT STANNARD
Editor
Waltham Forest Guardian

ESSENTIAL REPORTING



Don't mix up fines, costs, compensation and restitution. By all means say someone 'was ordered to pay a total of £500' but break it down later to explain how much was the fine, how much costs, and so on.



Keep up-to-date with the law: it changes all the time.

Look for items in the nationals' law pages and log on regularly to websites that carry news of legal matters affecting journalists: HoldTheFrontPage, for example, and the NUJ and Society of Editors websites.

There is a site carrying updates for McNae, and PA has an excellent online service offering regular media law updates, available for a modest fee: persuade your editor to subscribe.

It could save your newspaper a fortune.

Previous convictions: Read out after someone pleads or is found guilty. **Offences taken into consideration (TICs)** when sentence is decided. If the charge was a specimen, one of many others not being dealt with, say so.

Any mitigating circumstances raised by the defence when arguing for leniency, such as the defendant's state of health, domestic responsibilities, employment circumstances or financial status.

The sentence: Is a jail term the maximum possible? How long is the defendant given to pay a fine?

The public gallery: Is it crowded? Are there outbursts of protest or approval when the verdict is reached?

Anything else, from a power failure that disrupts proceedings to the accused knifing his solicitor, that might enhance or even make your story.

FOLLOW-UPS

After the case, it may be worth talking to the various parties involved for their reaction. You may get comments from defendants (*I was a complete idiot, This will cost me my job*), victims (*She ruined my life, He should be strung up*) and solicitors (*We are considering an appeal*). Beware of libel (and contempt if there are other cases pending).

If the case has attracted a lot of interest, there may be an angry crowd outside jeering as the defendant is driven off to jail (or cheering as he walks free).

There may be comment from elsewhere - from MPs on the wider implications of the case, from the defendant's employer saying there will now be internal disciplinary proceedings, or from third parties mentioned in the case.

DO YOU GIVE MISS A MISS?

Know your house style for names and titles.

Until recently the media mostly denied defendants their titles (*Mr, Mrs, Miss*) from the moment they were involved in a case, referring to them by their first name and surname at first reference and by their surname only thereafter - even if they were denying everything or had been acquitted.

it was a curious discourtesy, given our supposed belief that everyone is innocent until proved otherwise. Today

many newspapers have recognised this and give defendants their titles until they plead or are found guilty.

Know your house style, too, for addresses (do you include house numbers?) and abbreviations (is it *Detective Constable Jones, Det Con Jones, or DC Jones?*).

Check your newspaper's policy on identifying young people: some keep victims' and witnesses' names secret, even when legally allowed to publish them.

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This is the time when the media get sound and pictures, still or moving, to back up their reports. There may be other illustrative material available. The police may provide headshots of convicted defendants, maps of crime scenes, CCTV footage, or pictures of unclaimed stolen goods. The story may lend itself to graphics created in-house: how thieves broke into the bank, perhaps, or a chart showing the extent of benefit fraud.

WRITING IT UP

Some stories can be written in court while waiting for the next case to start or during long unreportable legal wrangles. Write the rest as soon as possible afterwards, while they are still fresh in your mind and notebook. Remember to take the court list back to the office so that you can check details from it.

THE INTRO

Treat court stories like any other: they just happen to come to light in a courtroom. One of the biggest problems with some inexperienced court reporters is that they always treat what happened in court as the most important thing.

Sometimes this is indeed the case (*Driver banned for speeding, Pensioner jailed for shoplifting*) but often the court appearance is secondary and the best story is actually about events that happened long before but have only now become known (*Wife went berserk with chainsaw, Banker put client's money on 1000-1 horse*). It is possible to write some court stories without mentioning the court at all until the end.

Look for a non-court angle before you leap in with a boring intro about *Magistrates were told yesterday* or *A man appeared in court today*. Ask yourself:

Who was involved? Is the defendant (or anyone else in the case) famous, important or unusual in any way? It may be their sex, age, occupation, disability, hobbies, religion, or anything else that makes them different (*Film star drunk on bus, One-legged fishmonger held up bank, Vicar stole to support crack habit*).

What did they do? Was the crime unusual, horrific, ridiculous, out of character, a record of some kind? (*Teacher stole deadly snakes, Hold-up man fell off getaway bike, Shopgirl hid 2,000 manhole covers in bedroom, Publican first to flout new law*). Does the defendant have a long string of previous convictions or ask for multiple other cases to be taken into consideration? (*Teenager's two-year reign of terror*).

Where and when was it? Did it involve somewhere unusual or take place at a special time? (*Robber broke into zoo on Christmas Eve, Bridegroom arrested on stag night*).

Why did they do it? What were the reasons for the crime? What was the defendant's explanation and were there mitigating circumstances? (*Jilted lover burned house down, Father-to-be in 140mph hospital dash*).

Always be wary of working in a pack. Other reporters can be unreliable.

At a police press conference following a murder near Ripon, we noticed the man from the local weekly was missing.

He was in the cells.

Not only had he written the first reports of the murder, he was the killer.

As the man from the Yorkshire Post said: 'He didn't even have the decency to give us the full story first...'

SHARON GRIFFITHS
Feature writer
The Northern Echo

If you're not highly inquisitive - or downright nosy - don't be a journalist.

SIMON O'NEILL
Editor
Oxford Mail

ESSENTIAL REPORTING



Make sure you get titles correct. High Court judges get very twitchy if they are referred to as Judge instead of Mr Justice.

Queen's Counsel expect you to tell readers they are a QC.



Ask if you can have a trip round the cells. It's an eye-opener.



If you ever get a story about a doctor falling foul of the General Medical Council, the body that hears accusations of GPs' professional misconduct or incompetence, don't say he or she has been struck off the register: there's a right of appeal. Say the doctor 'was ordered to be struck off'.

How were they caught? Was the defendant unlucky, was it by chance, who caught him or her? (*Midnight swoop netted drugs gang, All-in wrestler trapped thief when his trousers fell down*).

Sometimes you can hang a story on reaction to the result. Defendants may break down in tears, whoop with joy, or threaten revenge on the judge. The response of other people – victims, witnesses, the crowd outside the court – may be worth highlighting.

There may be long-term implications for those involved (*Bus driver sacked after late-night brawl, I'll never be the same, says victim*) or the public at large (*Thousands may get speeding bans overturned, Court decides smoking at home is illegal*). There may be more prosecutions to come.

Solicitors may announce plans to appeal or issue statements saying their client's reputation has been restored. Employers may announce

GET RID OF THE JARGON

Police and court officials have a language all their own. Turn it into plain English whenever you can. Common examples include:

Alleged = Said or Claimed	Occasioned = Caused
Appearing for the defence = Defending	Pending = Awaiting or until
Attempted to apprehend him = Tried to catch him	Pleaded not guilty = Denied
Disqualified = Banned	Proceeding = Going
Entered a plea of guilty = Admitted	Refuted = Disproved (<i>not</i> Rejected or Denied)
Expressed regret = Said he was sorry or apologised	Stated = Said
Found liable = Convicted or Found guilty	The accused = The defendant or, better, his or her name
Had occasion to question = Questioned	The property of = Belonging to or owned by
Imposed a fine = Fined	Was found to be = Was
In control of a moving vehicle = Driving (or trying to)	Was in possession of = Had
Knowingly and with intent = Deliberately or Intentionally	Was the property of = Belonged to
Motor vehicle = Usually a car	Witnessed = Saw or Watched
Observed = Saw	

COURT REPORTING

internal inquiries or changes to procedures (*Police probe after detective jailed, Death-trap firm promises safety drive*).

And, yes, sometimes the result of the case does provide the strongest intro:

The sentence may be particularly tough (*Ten years for litterbug*) or lenient (*Serial killer walks free*), the most or least that could be imposed (*Judge throws book at librarian*).

The judge or magistrates may say something outstanding (*Man jailed for 'totally unprovoked' attack*) or make recommendations (*'Life will mean life'*).

Whatever angle you choose, however long or short your story, make sure you include all the bare essentials mentioned earlier in this chapter.

QUOTES

If there has been a guilty plea or a conviction, you can make statements as fact (*Gardener mowed down pedestrians*) but until someone has admitted or been found guilty of an offence, make it clear claims made in court are just that, not established truth.

Attribute them to the speaker (*Gardener killed seven, says prosecution*) or turn them round (*Gardener ran amok, court told*). Headline writers may get away with using quote marks (*Gardener 'ran amok'*) but your story has to make it clear who said so.

BALANCE

Your story should be balanced. That means including the plea and a summary of the defence in any case where the defendant has denied the offence, and even guilty-plea stories longer than just a couple of paragraphs should mention mitigating circumstances (if there were any, of course).

If a case is adjourned, you should write a balanced report of the proceedings that have taken place so far. It may be that only the prosecution case has been heard by the time you go to print, but that is not a problem so long as you mention any not-guilty plea and make it clear the case is continuing: say so at the end of your story.

Translate charges couched in legal jargon (see the panel opposite) into normal language but beware of getting it wrong (there is a serious difference between *actual* and *grievous bodily harm*).

Don't call someone just over the breath-test limit a drunk. Don't mix up car theft with taking a vehicle without consent (known as TWOC).

Be careful with phrases like *escaped jail* or *got off scot-free* that suggest you think the defendant deserved a tougher sentence than the one that has been imposed.

Watch your pronouns. *Brown's solicitor, Mr Algernon McFuddle, said he drank like a fish* is not going to please teetotal Mr McFuddle.



If your shorthand is rusty, there is no point thinking you can cover it up.

After Tony Blair visited my patch, I was granted an interview with him on the train back to London.

Without time to borrow a dictaphone and tape his words of wisdom, I had to take down what he said in longhand while sitting opposite him in the carriage.

After the first paragraph he knew and I knew that his words weren't making it onto the page.

It was a nightmare.

MATT JACKSON

Reporter
Swindon Advertiser



Read your story through TWICE for the mistake before you send it to newsdesk. You know there's one in there...

GRAEME HUSTON

Editor in chief
South Yorkshire
Newspapers

ESSENTIAL REPORTING



Some court reporters have ready-made speeches to hand, prepared by themselves or their newsroom's lawyers, laying out detailed, coherent and persuasive arguments why the most common orders should be overturned.

It works a lot better than trying to cite the law off the top of your head and looking foolish when you can't remember it or, worse, get it wrong.



When covering youth courts, remember that some of the terminology is different.

Young people don't plead guilty or not guilty, they admit or deny offences; they have findings of guilt, not convictions; they are not sentenced, they are made the subject of a court order.

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Watch your phrasing. *A driver was fined for doing 135mph at Midthorpe magistrates court yesterday is silly. He was fined by Midthorpe magistrates yesterday for speeding somewhere else weeks ago.*

AFTERWARDS

If the case is continuing the next day, advise the newsdesk. It makes sense for you to cover it again, but if this is not possible you will need to brief whichever reporter is taking over.

If worthwhile cases are adjourned or sent to crown court, put them in the diary. If your newspaper has carried a paragraph saying someone has been committed for trial, it should at the very least carry the result when the case comes up.

Store your notebook somewhere safe.

BACKGROUNDERS

If the case is a big enough story and you have known about it in advance, you may be asked to work ahead on background features to appear once it is over: a profile of the defendant, an analysis of the crime, an article on how it has affected the victims' lives.

Make sure the information you get is not later discredited in court.

Be wary of contempt if you are interviewing witnesses who may appear in court later. Their evidence could be swayed by what they have told you (or you have told them).

Don't offer payment to witnesses without the prior agreement of your editor. Such payments are banned by the Press Complaints Commission's code of conduct once a case becomes active (unless it is clearly in the public interest and the only way to get vital information) and must never be made on condition that there is a conviction. Payments to convicted criminals for stories that might glamorise their activities are banned at all times, unless there is a demonstrable public interest.

PROBLEMS

If you make a mistake, own up. A rapid correction is better than a long drawn-out legal battle. Make sure any correction is archived with the original story so the error is not repeated in the future. If the story went on the website, amend or delete it.

Defendants may contact you before or after your story is published to complain that what was said in court was not correct or the whole truth, and demanding you print their version of the facts.

If they are on the phone, re-direct them to the newsdesk straight away. If you are confronted outside the court, be courteous, but tell them this is not possible: your story was an accurate report of the proceedings, and you would have no legal protection for claims made out of court. Suggest they ask their

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solicitor to make a statement in open court that you might then be able to report. It is highly unlikely the court will go along with this, but it should get the complainant off your back. Inform your newsdesk about the request.

More often you will be approached after a court case by someone asking you to keep it out of the newspaper (*I'll lose my job if the boss finds out or It'll kill my sick mum if she reads it*). You may feel sympathy but never give in. Your reputation, in and out of the office, is at stake.

Explain that it is your job to report cases and it is not your decision what gets published; say you will pass the request on to your editor, who they should contact if they want to take it further. Then write the story, making absolutely sure every word is accurate (you can bet the defendant will go through it with a fine-tooth comb looking for reasons to complain). Tell the newsdesk what happened. It may want to make sure the story is printed just to prove the newspaper can't be bought or bullied.

Requests for cases to be overlooked may come from people you know, which puts a strain on friendship and can mean the end of a useful contact, but it is vital that you don't put personal relationships before your duty to report cases fairly and honestly.

In rare cases you may be offered a bribe, or threatened. Again, tell your newsdesk (or the police). If someone close to you is due to appear in court, ask the newsdesk if another reporter can cover the case.

CHALLENGING THE COURTS

If you cover courts regularly, it won't be long before one imposes an order you think should be challenged. It may be lawful but unjustified: a ban on naming a persistent young offender, perhaps. It may be downright illegal: a ban, for example, on identifying an adult defendant simply because they would be embarrassed by publicity. Lay magistrates are not legally trained and rely for advice from their clerks, who, although trained in the law, are not always well up on media rights and restrictions. Even judges can be hazy about their powers.

Challenging a court, especially a crown court, takes some courage. The secret is to be well prepared. If you have advance notice that an

IF THE VICAR GOES ASTRAY...

He could end up being de-frocked by a Consistory Court, run by the Church of England to handle cases of alleged misconduct by church officers.

They can be the source of good stories: *Deacon runs off with organist's wife* is a perennial favourite.

The courts also deal with matters affecting changes to churches and church-

yards, which sometimes make the news when, for example, there are disputes about boundary walls or graveyards being moved.

They are presided over by a lawyer known as the chancellor, with a 'jury' made up of church members. Appeals go to the Court of Arches.

You are entitled to attend and report.



Keep your notebook out of sight until you know the natives are friendly.

MARK DICKINSON
Editorial director
Trinity Mirror Midlands



Don't be afraid of making mistakes - just try not to make them in the first place.

MARK JONES
Editor
Basingstoke Gazette



Never ask for a freebie and you'll never be disappointed.

GRAHAM PRATT
Deputy editor
The Journal, Newcastle

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Don't pre-judge the verdict of an inquest unless the cause of death is unarguable.

Coroners dislike you telling the public someone committed suicide before the inquest has been held.

Not everyone found dead in a river has drowned themselves, or indeed died of drowning.

Not everyone found dead beside a shotgun meant it to blow their head off.



Contact suggestion: the coroner.

Formidable figures, some of them, but most are human and will be happy to explain inquest procedures and discuss the ethics of media coverage.

Make yourself known to pathologists, who will translate medical descriptions and might even offer you a tour of the morgue. Don't accept unless you've got a strong stomach.

order might be made (there is nothing to stop you asking defence lawyers if they plan to ask for one) you can marshal your case beforehand, gathering evidence of past rulings and appropriate quotes from your copy of *McNae*.

Often, though, orders come out of the blue and you have to act swiftly. Pass a note to the clerk explaining that you want to do so and requesting permission to address the court: as an interested party in the case you are entitled to ask for that. The chances are that they will agree and you will be invited to speak at the next appropriate break in the proceedings.

Take a deep breath and do your best. If it works, you will get a better story and a pat on the back at work. If you fail to convince the bench that their order, while legal, is not in the best interests of justice you will probably have to put up with it, though you might highlight their refusal to agree with you in your story (*JPs refuse to name and shame public menace*).

If you are convinced they are acting illegally, take it further. Tell the newsdesk, and if they agree with you they can pursue the matter at a higher level. *McNae* has an excellent chapter on challenging the courts which (like many others) is worth looking at before you embark on court reporting. It also contains the Code of Conduct, pocket-sized versions of which are available free from the Society of Editors which helped to create it.

The society was also instrumental in persuading the Home Office to issue clear and explicit guidelines about media rights and restrictions to judges and magistrates, and having a copy of these (available on the society's website) could greatly add to your credibility when challenging a court.

OTHER COURTS

MUCH of what has been said above about covering magistrates and crown courts applies to other legal proceedings you may occasionally be asked to report.

YOUTH COURTS

These are less formal than adult courts, with special panels of magistrates. Parents are usually present. The press are allowed to attend but not the public. Remember that there is an automatic ban on identifying any young person involved in the proceedings. This includes witnesses and victims as well as the accused.

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FAMILY PROCEEDINGS

These are civil, not criminal courts, dealing with family matters, and empowered to make a wide range of orders, such as maintenance, care, supervision, affiliation and access. The press may attend but can be excluded if children are involved. You need to be aware of the extensive restrictions on what you are allowed to report.

COUNTY COURTS

These decide relatively small civil disputes (major cases end up in the High Court). They are rarely covered as a matter of course, but it is worth keeping an eye on forthcoming cases. Some of them make good copy: feuds between neighbours, customers disputing bills, tradesmen trying to recover debts, landlords battling with tenants. They also handle divorce and bankruptcies.

You have the right to attend and report, whether they are held in open court or in the district judge's chambers. Remember that these courts deal with civil cases and nobody is accused, charged or sentenced: claimants sue defendants and the courts make orders.

COURT MARTIALS

These are a military version of crown courts, dealing with serious service offences such as desertion or dereliction of duty (servicemen or women accused of criminal offences face civilian courts like anyone else). They are presided over by a president, sometimes aided by a legally-trained judge-advocate. Officers act for the prosecution and defence.

The press is allowed to attend and newsrooms should have a system for being informed of impending cases, though details are posted publicly at the army, navy or airforce based involved.

Court martials (or courts-martial: check your house style for the plural) are covered by absolute privilege and are subject to the same contempt laws as any other court. The findings and sentences of army and airforce court martials are subject to confirmation, and your story should say so.

INQUESTS

CORONER'S courts are a rich source of news stories and open to the press and public unless national security is involved. They are run by coroners, usually sitting alone, though a jury (of between 7 and 11 members) can be summoned if public health or safety may be involved.



I covered an inquest of a man who died after a night spent taking drugs with his girlfriend. I didn't take notes about her involvement, but included it in my story.

When she complained, I had to admit to my editor that I had no proof it was said at the inquest, though I was certain it had been.

He made me go to her house with a bunch of flowers and apologise. I was mortified.

CLARE BOURKE

Former editor
West London Times

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If you cover inquests, it won't be long before you listen to some fairly graphic descriptions of how people met their deaths. Most news organisations avoid giving the most gruesome and intimate details of people's illnesses and injuries unless there is good reason for doing so.

The law bans the publication of what it describes as indecent medical, surgical or physiological details calculated to injure public morals, but what these details might be has yet to be tested.

In large towns inquests may be held on a regular basis, perhaps once a week or more; elsewhere they may be called only when needed. Coroner's officers (sometimes police officers) know when inquests are taking place and newsrooms include them in their regular calls. Details may be given on police voicebanks.

The Home Office has repeatedly urged coroners to ensure that the media are given adequate notice of inquests, but not all are as keen on inquests being covered as we would like them to be.

PROCEDURE

Unlike criminal courts, the procedure at inquests is inquisitorial, with the coroner leading witnesses through their evidence and allowing interested parties such as relatives of the dead person to ask questions.

Some evidence may be given in written statements which the coroner should read out to the court, though they have discretion on this and the detailed content of suicide notes, for example, is rarely disclosed.

Most inquests are opened for evidence of identification and then adjourned to a later date for a full hearing. If you cover the opening, put the date of the full hearing, if known, in the diary.

Inquests hear reports from pathologists who carry out post-mortem examinations (also known as autopsies) to determine the cause of death. Their evidence will be couched in medical language that you may need to translate. *Haemorrhaging*, for example, is *bleeding*; *carcinomas* are *cancers*; *lacerations and contusions* are *cuts and bruises*, a *fractured femur* is a *broken leg*. If you have any doubt, ask for an explanation or look it up: a good newsroom will have a medical dictionary among its reference books.

VERDICTS

Verdicts may be simple - *accidental death* or *misadventure*, for example, or an *open verdict* if the cause of death cannot be decided - but narrative verdicts, giving a short summary of the cause of death, are increasingly common. Don't say the cause of death was suicide if the coroner says someone hanged themselves while suffering from depression.

The verdict may be the obvious intro to your story (*Poisoned painter killed himself*, *Husband was stabbed by accident*) but often the story is more about why rather than how somebody died, which has already been reported (*Bridge leap man was due in court*, *Faulty kettle blamed for tragedy*). Comments by the coroner or jury may be the strongest angle, or it may be the response of relatives to the verdict.

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Make sure you include all the basic details in your story - name, age, address and other details of the deceased, the time and place of death, and the verdict. Remember that coroners *record* verdicts, juries *return* them.

If there is any suggestion that criminal proceedings may follow, check with the police if any prosecution is planned and put it in the diary.

TRIBUNALS

THERE are many different kinds of tribunal, some exercising powers not dissimilar to the courts, some purely administrative. They are not criminal courts, though they do make legally-binding decisions. A chairman or chairwoman, sitting with two or more other people, hears evidence from the parties involved. Procedures vary, but most are less formal than courts.

Reporters are allowed in unless their presence threatens national security or confidentiality. Reports are covered by absolute privilege if a tribunal exercises judicial powers, qualified privilege if not. Some may be subject to the laws of contempt, though this is a hazy area.

The ones you are most likely to cover are employment tribunals dealing with such matters as unfair dismissal, redundancy claims and allegations of discrimination or harassment. You may also come across tribunals making decisions about rents, valuations and benefits. Lists of forthcoming cases are available in advance from tribunal offices. Names of the parties involved, the date and place the tribunal will be held, and a case summary will be posted outside. Tribunal clerks will help you sort out details.

Tribunals may reserve their decisions, and their reports may not be available until weeks later. You can arrange for copies to be sent to you. Adjournments are common. Be careful if reporting only one side of a case and make sure the rest is covered later.

McNae lists a selection of other tribunals whose proceedings might attract media attention.

WATCH OUT FOR ID BANS

In cases of alleged sexual harassment, either side can ask the tribunal to ban you from reporting their identity until the final report is published.

If such an order is made, take care that your story does not identify someone who, though un-named, is readily recognisable by some readers.

Naming a firm whose sales manager is alleged to have assaulted a secretary, for example, would be dangerous if it employs only one sales manager and few secretaries. Even giving the name of the firm might be a problem.

Orders can be challenged by the press.



Be tactful. I arrived on the doorstep to interview a woman whose husband had been blown to smithereens in an industrial accident. A reporter from the rival paper was there too and met every quote with 'Great!' 'Good!' or 'Excellent!'

ANTHONY LONGDEN
Managing editor
Newsquest,
Herts, Bucks & Middlesex

ESSENTIAL REPORTING



If you cover a planning inquiry, there may be plenty of references to the council's local plan. There should be a copy of it in your library.

Take it with you to help unravel what they are talking about when they say a proposal contravenes section 97, sub-section B, clause 19(b).

INQUIRIES

LOCAL inquiries, held into matters such as planning applications, are similar in many ways to administrative tribunals. They are conducted by an inspector appointed by the relevant government minister, are open to the press and carry qualified privilege.

Decisions are made public later and usually issued to the media.

FREEDOM OF INFORMATION LEGISLATION

US citizens have had the benefit of a federal freedom of information (FOI) act since 1966. All fifty states had either already passed legislation guaranteeing qualified access rights to public body documents and information before Congress legislated or did so afterwards. The United Kingdom passed its first FOI Act in the year 2000. Scotland introduced similar legislation through its own Parliament in 2002, and FOI campaigners say its provisions are somewhat stronger than are those of the legislation south of the border: 'The Scottish Information Commissioner is more powerful' (Brooke 2006: 34) But the legislation did not come into force in Scotland and the rest of the United Kingdom until January 2005. Was this a sign of the insecurity, lack of preparation and perhaps cultural reluctance inherent in the body politic?

A comparison of FOI laws indicates that they differ widely in detail and scope. However, there are some common factors. An underlying or central principle is asserted that the people have a right of access to government information. Inevitably, that right is qualified by exemptions that enable governments to refuse disclosure of information on the grounds that specific harm will be caused by publication. It is possible to identify common categories in FOI exemptions: formulation of executive policy, relations with other countries, investigation of crime and administration of justice, national security, privacy of citizens, and commercial secrets. The majority of FOI legislative machineries allow for a right of appeal to an independent body, usually known as an information commissioner, and this process of appeal is more often than not embedded into judicial review or referable up the ladder of the country's judicial system.

Discussions of the subject usually include the almost mythological fact that Sweden was the first country in the world to enact an FOI-style law, in the age of the Enlightenment in 1766. But the power to demand government documents could not in practice be used by Swedish citizens until some 43 years later. There was little enthusiasm to follow the model. More than a hundred years would pass before similar laws would be voted in elsewhere. The chronology of FOI law making around the world is set out in Table 13.1.

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Table 13.1 Freedom of information legislation – unfolding internationally

<i>Country</i>	<i>Date</i>
Sweden	1766 – enacted 1809
Finland	1951
USA	1966 and 1967
Denmark	1970
Norway	1970
France	1978 and 1979
Netherlands	1978 and 1991
Australia	1982
Canada	1982
New Zealand	1984
Greece	1986
Austria	1987
Italy	1990
Spain	1992
Portugal	1993
Belgium	1994
Ireland	1997
Japan	Legislated 1999, enacted 2001
India	2005
United Kingdom	Legislated 2000, enacted 2005

One might be forgiven for detecting a lack of critical focus or contemplation over whether ‘freedom of information’ legislation is necessarily a good development in law or constitutional reform. Campaigners have an almost evangelistic zeal. One thing cannot be denied, and that is that FOI has become a transnational distinguishing mark of democracy and freedom. A two part series of BBC World Service documentaries, *The Right to Know*, broadcast in 2008, reported that more than seventy countries now have FOI, and another fifty are planning to join the club. At the time of writing Saudi Arabia and China have not joined, and it may well be more than a coincidence that both these countries are seen as authoritarian. But the academic and chronicler of freedom of information around the world David Banisar was in a position to write in 2006: ‘The previous two years have been an exciting time for those promoting and using the right of access to information. Countries on every continent have adopted laws.’ (Banisar 2006: 6)

The term ‘freedom of information’ is something of a misnomer. The legislation adopted in the USA and UK does not amount to an absence

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of restrictions on the voluntary disclosure of information. It does not involve the unqualified right to demand information, and the phrase does not appear in the language of the European Convention on Human Rights. We are not dealing with absolutes here. It is another case of relative freedom and attenuated rights. It certainly involves the bureaucratic legalization of the flow of information from governments to their citizens and it attaches a price and process to that flow. There is, consequently, a decline in the exercise of discretion and ethical negotiation, and an increase in legal process and litigation.

It might be argued that the FOI culture that requires public authorities and bodies to legally and constitutionally calculate the balancing of rights in disclosing information has seeded the developed cult of anonymity and a slowing down or delay in the dissemination of information. In practical terms I can cite two examples of how this change in culture directly affects the methodology and content of journalism.

In the 1970s, as a young reporter for media organizations, I would ordinarily be given the name, age, marital status and address of anyone involved in a public event recorded by the police and this could be an arrest, charge or accident. There was no legislation saying that the police should not provide this information; equally there was no legislation saying that they should. The practice was custom and had been established in the context of an open, liberal and democratic society that supported the idea that public events involving the police and emergency services should be reported with transparency and that when ordinary people got caught up in these events their named participation was part of the public record.

In the FOI culture this is no longer the case. Enveloped in the FOI process is normally some kind of data protection law rooted in the concept of privacy. The police in Britain will not ordinarily reveal the details of people arrested or charged with criminal offences. The issue of identification is usually left to the ritual of a first court appearance. If they decide to release any information before a court appearance it may be limited to a name and age, perhaps profession, but most rarely will this involve any address details. The identities of individuals involved in accidents that the police attend to will not be released except with their permission or with that of next of kin. The release of the identification of the victims and locations of crime will be determined by issues of privacy and by the anticipation of the consequences of that information's being used by other people to commit further crimes.

These developments are seen as representing progress. But there are consequences. Murders and serious crime incidents are sometimes not reported for 24 hours; sometimes days after the event. The nature of the representation of the event becomes the deep focus of controversy and enquiry, as was the situation with the deaths of Mr Jean Charles de

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Menezes at Stockwell underground station in London in 2005 and of Mr Ian Tomlinson in the City of London in 2009. Both incidents involved investigation of the behaviour of police officers. Both incidents revealed contradictions in the release of information by the police in the immediate aftermath of the events and subsequent revelations of the actual narrative provided by witnesses.

In 1980 I was assigned to cover the case of a private aeroplane that had ditched into a heavy sea swell off the coast of the north-east of England. The pilot had been rescued by coastguards and was recovering in a local hospital, but the passenger had died from exposure. Both the police and the coastguard gave me the names, ages, addresses and professions of the two men in the plane. I simply rang up the local hospital, asked to be put through to the pilot, who I stated was a patient there, and was put through to his ward and was able to speak to him. I explained who I was, expressed my condolences and sympathy and asked whether he would be prepared to be interviewed. He invited me to visit him so that I could record an interview. He wanted to explain what had happened and pay a tribute to and make a spoken obituary of the passenger, who had been a close friend. He wanted to express publicly sorrow and condolence to the family of the man who had died. I walked into the hospital as a visitor, the radio station's large tape recorder, emblazoned with the station's logo, around my shoulder and was directed to the ward. Nobody challenged me. Afterwards the hospital authorities complained that I had trespassed, breached the pilot's privacy, failed to seek the permission of the hospital administrator, and tricked the pilot into giving an interview because he thought I was an air accident investigator. It is true that I had not sought the permission of the hospital administrator, as I had not thought this was relevant when the patient had invited me to visit him during advertised and public visiting times.

The same situation in 2009 would have had a different outcome. It is unlikely that the details of the pilot and his passenger would have been released until many days after the plane crash. The pilot would probably have been advised against the release of his personal details. Some kind of official liaison barrier would have been placed between the pilot and the media. No media reporter would be allowed on hospital premises without first reporting to hospital security and administration. It is highly unlikely that a reporter would be able to phone a recovering patient directly unless the details of the patient's personal mobile phone were known. Many would argue that this is all for the best. The circumstances in which the British actor Gordon Kaye was interviewed and had his photograph taken by a reporter and photographer who had walked into his private room at the Charing Cross Hospital in London in 1990 resulted in a notorious court case in 1991 and a ruling of malicious falsehood against the newspaper they worked for. (*Kaye v Robertson* HC 1991)

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However, if it is accepted that everything connected with the aeroplane crash into the sea was bona fide, voluntary and without subterfuge, can it not also be argued that a method and spirit of openness in communication and journalism present in 1980 may well be absent in 2009? The difference in these journalistic time cultures could be accounted for by the differences in standard information-release and -retention cultures, separated by nearly three decades of history and the resulting changes in social and moral values. The campaigners for FOI legislation would argue that the powers given to citizens to apply for information create a freer and more liberal environment in which to discuss and debate the setting of those values.

By establishing statutory obligation to communicate public information as well as to release it on application, central government is fostering a more open climate for the exchange of official information. This is reflected in the optimism of long-standing FOI campaigner Heather Brooke, who believes passionately that secrecy on the part of government gestates injustice and disaster because it acts as a host for bad practices that cannot be challenged: 'One reason government officials hate openness is that it highlights their mistakes, and that's embarrassing. However, avoiding embarrassment should not be the guiding principle of any government; running an efficient and well-run system should be.' (Brooke 2005: 5)

David Banisar sets out four essential benefits arising from FOI laws: democratic participation and understanding; protecting other rights; making government bodies work better; redressing past harms. Banisar perhaps states the self-evident when he explains that 'Democracy is based on the consent of the citizens and that consent turns on the government informing citizens about their activities and recognizing their right to participate.' (Banisar 2006: 6) He was echoing US President Lyndon Johnson's resonant declaration when approving the 1966 Freedom of Information Act with the words: 'I signed this measure with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded.' But it has been debated whether President Johnson's mentality was in accord with his rhetoric. His successor, President Richard Nixon, struggled to use the Act's exemptions to block access to his White House tape recordings during the Watergate scandal. Supreme Court rulings thwarted the process of presidential cover-up and led to the threat of impeachment and his eventual resignation.

Banisar is by no means naive about the potential 'fig leaf' characteristics of FOI laws, which can easily camouflage arbitrary dictatorship and authoritarian oppression. There is always the risk that they will become as redundant and meaningless as superficially exercised constitutional articles on freedom of expression and free and democratic elections, and that the culture of secrecy will remain locked into the system: 'Many of the laws are not adequate and promote access in name only. In some

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countries, the laws lie dormant due to a failure to implement them properly or a lack of demand.' (Banisar 2006: 6)

FOI legislation generates a scale of expenditure and bureaucratic infrastructure that can be exponential and cost inflationary. In 2006 the UK Department of Constitutional Affairs reported that FOI requests were costing government £24.4 million a year. (Welsh et al. 2007: 374) An initial wave of 13,000 requests were made to central government in the first three months of 2005 and by the end of the first year there was an estimated total of between 100,000 and 130,000 requests across all bodies, including 38,108 requests to central government bodies. (Banisar 2006: 156) The UK's Campaign for Freedom of Information sought to measure the cost qualitatively by publishing *500 Stories from the FOI Act's First Year* and the journalistic benefits from exercising rights to information from more than a thousand public bodies and authorities. There is clearly a disparity in proportionate costs, requests and results between the UK, with a population estimated at 60 million, and the USA, with a population of 300 million. In 2004, the US processed 4,047,474 requests at a total cost of \$330,175,513.

Banisar reports that US FOI law may well be more established than its UK counterpart, but age does not necessarily bring the benefits of wisdom and maturity: 'The FOIA has been hampered by a lack of central oversight and long delays in processing requests. In some instances, information is released only after years or decades.' (Banisar 2006: 159) A review by Associated Press in 2006 found that nearly all executive departments had increasing delays ranging from three months to over four years; national security-related agencies were releasing less information; and 30 per cent of departments had not submitted their annual reports on time. The National Security Archive found that the oldest request on record was 17 years old. Banisar was critical of the Bush administration and he highlighted the issuing in 2001 of a memo by Attorney General John Ashcroft declaring that the Justice Department would defend in court any federal agency that withheld information on justifiable grounds. (Banisar 2006: 159-60)

In 2009 the Obama administration appeared to signify a change in policy; particularly with the release of the so-called 'torture' memos indicating the legal and political approval for the policies of water-boarding in interrogation of terrorist suspects. However, at the time of writing, the decision to pursue a defence against the American Civil Liberties Union's FOI disclosure request for Iraq and Afghanistan prisoner-abuse photographs and videos seems set to rise through the federal legal appeals system as far as the Supreme Court.

There is growing evidence that FOI laws generate transnational dimensions of empowered disclosure, so that liberty and democracy in non-FOI countries are seeded and inspired by disclosure achieved in others. In

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1979, British Prime Minister Margaret Thatcher revealed in the House of Commons that the former Keeper of the Queen's Pictures, Sir Anthony Blunt, had been one of a group of home-grown spies recruited by the Soviet Union at Cambridge University in the 1930s and had been given immunity from prosecution. Her decision to expose the arrangement was against the advice of the Security Service, MI5. The political pressure on the government had been generated by Andrew Boyle's book *The Climate of Treason*, in which he had analysed the history and damage without actually naming Blunt as the 'fourth man' who assisted and protected the defectors Donald Maclean, Guy Burgess and Kim Philby. Some of the information in Boyle's book could only have been obtained under the US Freedom of Information laws. (House of Lords Select Committee 1998: note 32)

The historian Alasdair Roberts seems to argue in *Blacked Out: Government Secrecy in the Information Age* (2006) that the overriding question remains whether the drive for transparency has successfully stemmed the desire for government secrecy and effectively challenged overreaching presidents and secretive government agencies. Has the bureaucratic ritualizing, tracking and costing of information request and release simply served to educate government elites and state apparatchiks into ways of frustrating, concealing and offsetting 'freedom of information'? Have they learned to mince less and to shred more efficiently? Some of the drawbacks of British Freedom of Information Act culture are set out in Table 13.2

Table 13.2 Freedom of information: drawbacks for journalism

The end of exclusives?

The response to your FOI request will be publicly available – normally on the public body's website. This means that the rest of the media will be able to benefit from your investigative journalism.

Increased self-censorship by public bodies

Civil servants are avoiding the minuting of key information during meetings and administration so as to minimize embarrassing data trails. As well as circumventing the aims of the FOI Act, this will impair the quality of historical records.

Putting a price on information

The FOI Act has created a bureaucracy for releasing information, which has a price – that can be increased at any time.

The emergence of FOI specialists

There is a danger that the bureaucracy and time/labour requirements of FOI usage will divide journalists between the processors/churnalists and the interrogative investigative elite who have the status, resources and time to be given the privilege of FOI access.

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At the beginning of his book Roberts playfully juxtaposes Jeremy Bentham's words from 1785: 'The eye of the public makes the statesman virtuous. The multitude of the audience multiplies for disintegrity the chances of detection', with Donald Rumsfeld's comment in 2004: 'Our country has forgotten how to keep a secret.' (Roberts 2006: v)

Ruling elites and government apparatchiks all realize that power is determined and exercised by the skill and methodology of concealing corruption, incompetence, human rights abuses and environmental degradation. Roberts highlights the impotence and limited reach of FOI laws in checking the records and paper trail of decision making by supranational corporations and bodies that are designated as either private or quasi-public. And in the future the key difficulties will be 'extracting and manipulating digitised data' and 'equity in access to government information.' (Ibid.: 227)

Practical guidance on using FOI laws

There is no shortage of excellent books published in the UK and USA providing 'how to' kits on using FOI laws for journalism, research and political campaigning. The laws in both countries are complicated, as the attempt to contrast them in Table 13.3 tends to demonstrate. However, in Tables 13.4 and 13.5 I have attempted to provide guidance tables with gate-keeper advice on online resources that were available as this book went to press.

By 2009 the United Kingdom had the benefit of nearly four years of Freedom of Information Act culture and process. It has transformed the nature of professional journalism by providing a focus and mechanism for investigative enquiry. In some respects this is very much counter to the tenor of the popular book by Nick Davies, *Flat Earth News: An Award-winning Reporter Exposes Falsehood, Distortion and Propaganda in the Global Media* (2008), in which he states 'I'm afraid that I think the truth is that, in trying to expose the weakness of the media, I am taking a snapshot of a cancer. Maybe it helps a little to be able to see the illness. At least that way we know in theory what the cure might be. But I fear the illness is terminal.' (Davies 2008: 397) Notwithstanding his discourse on 'churnalism' in newsrooms, the recycling of ideologically narrow sources of news agency, government and corporate public relations press releases, and the stretching of journalists into an overworked conveyor belt of overproduction in high-pressured news factories, the Freedom of Information Act has led to the introduction of workshops and courses on the subject at universities that teach journalism. Training sessions and workshops have also been provided within the professional media and journalistic workspace. It has provided an opportunity for the news media to allocate and ring-fence resources and expertise for investigative enquiries into government information beyond the 24/7 time sequence.

Table 13.3 Comparison of UK and USA freedom of information operations and exemptions

<i>United Kingdom</i>	<i>United States</i>
Legislated for in 2000 and 2002 but operational January 2005 at UK and Scottish levels	Legislated for in 1966 but operational in 1967 in relation to federal bodies. Some states had legislation operating FOI-equivalent laws before 1966, but most was enacted afterwards.
<p>Applies to all public authorities at national and local level.</p> <p>A legal right of access to information held by public authorities:</p> <p>1(i) Any person making a request for information to a public authority is entitled:</p> <p>a to be informed in writing by the public authority whether it holds information of the description specified in the request and</p> <p>b if that is the case, to have that information communicated to him.</p>	<p>Applies to federal government bodies, but excluding Congress.</p> <p>The Act states that the public has a right of access to most existing government documents but does not provide a definition of 'record'.</p> <p>The federal agencies include 'the executive branch of the government and its departments; all regulatory agencies, such as the FCC and the FTC; cabinet-level agencies such as the Defense Department and the FBI; and government-controlled corporations, such as the U.S. Postal Service'. As in the UK there should be a response to a request within 20 working days, but in practice shortages of staff and resources can lead to long delays.</p>
<p>Two classes of exemption apply: Absolute exemptions and qualified exemptions.</p> <p>Authorities also have the right to refuse 'vexatious requests'. Public authorities normally have 20 days (four working weeks) in which to reply after receiving a request.</p>	<p>Nine categories of exemption apply; they are not divided into absolute and qualified classes. They are all discretionary, although there are 142 different statutes that legislate for concealment, including the 2003 Homeland Security Act, which prohibits the disclosure of voluntarily provided business information relating to 'Critical Infrastructure'.</p>
<p>Absolute exemptions mean that the public body does not have to confirm or deny that it has the information. They are set out in section 2(3) of the legislation:</p> <p>1 information reasonably accessible to members of the public by other means (s.21(1))</p>	<p>The legislation has been substantially amended, including the Electronic Freedom of Information Act in 1996, which sought to update the law in the context of the Internet and digital age. The US lacks the infrastructure of an Information Commissioner or federal ombudsman. Broadly</p>

<i>United Kingdom</i>	<i>United States</i>
2 information supplied by, or concerning certain security bodies (s. 23)	speaking the US shares with the UK exemptions relating to defence, security and international relations, internal discussion and advice, law enforcement and legal proceedings, effective management and operations of the public service, the privacy of the individual, third-party commercial confidences, information given in confidence and statutory and other restrictions. No exemptions are defined for public employment, public appointments and honours, unreasonable or voluminous requests, publication and preinaturity in relation to publication.
3 information contained in court records (s. 32)	
4 disclosures that would infringe Parliamentary privilege (s. 34)	
5 personal information (s. 40)	
6 personal information the disclosure of which would constitute a breach of confidence (s. 41)	
7 disclosure otherwise prohibited (s. 44(1))	
See Robertson and Nicol (2007: 684) and Wadham et al. (2001: 74-87)	
Qualified exemptions mean that the denying authority must notify the applicant of its reasons and at the same time confirm existence of the information, which would fall under the following categories:	Exemptions:
1 Information intended for future publication (s. 22)	1 National defence and foreign policy secrets
2 Information the suppression of which 'is required for the purpose of safeguarding national security' (s. 24)	2 Material relating solely to federal agency internal personnel rules and practices
3 Information likely to prejudice the defence of the United Kingdom etc. (s. 26)	3 Information specifically exempted by other federal statutes (a catch-all exemption)
4 Information likely to prejudice foreign relations or the UK's foreign interests (s. 27)	4 Trade secrets and commercial or financial information obtained from businesses in confidence
5 Information likely to prejudice the economic or financial interests of the United Kingdom (s. 29)	5 Internal agency memos and policy discussions
6 Information likely to prejudice the protection or detection of crime, the administration of justice and law enforcement. etc. (s. 30 and s. 31)	6 Personal information, such as medical reports, personnel files and employment
7 Information relating to the development of government policy (s. 35)	7 Law enforcement investigative information
8 Information which would prejudice the conduct of government and public affairs (s. 36)	8 Federally regulated financial institutions. This is designed to protect the US banking and financial system from any catastrophic loss in confidence
	9 Oil and gas well data of private companies

Continued overleaf

<i>United Kingdom</i>	<i>United States</i>
9 Information relating to communications with the monarch etc. (s. 37)	Zelezny observes that state open records laws tend to be more complicated: 'This is particularly evident in the lists of exceptions to required disclosure – the kinds of information that agencies may or must keep confidential. Whereas the federal law lists nine exceptions, state statutes often list twenty or more' (Zelezny 2004: 247).
10 Information likely to endanger the physical or mental health, or the safety, of any individual (s. 38)	
11 Information covered by legal privilege (s. 42)	
12 Information relating to trade secrets (s. 43)	
See Robertson and Nicol (2007: 687–8)	More detailed guides on the operation of the exemption categories can be found at: Sadler (2005: 395–422); Zelezny (2004: 234–52) and Moore and Murray (2008: 616–35).
More detailed guides to and definitions of the absolute and qualified UK FOI exceptions, as well as advice on using the Act, can be found at: Brooke (2005: 27–33); Welsh, Greenwood & Banks (2007: 370–81) and Quinn (2009: 361–9).	

Table 13.4 Guidance table on using the British Freedom of Information Act 2000

<i>Resource/advice</i>	<i>Details</i>
Campaign for Freedom of Information (CFFI) (key resource)	www.cfoi.org.uk/ www.freedominfo.org/ 'is a one-stop portal for critical resources about freedom of information laws and movements around the world'. It is managed and primarily authored by the academic David Banisar, who edits and publishes <i>Freedom of Information Around the World 2006: A Global Survey of Access to Government Information Laws</i> .
What Do They Know (Supports, advises on and tracks FOI requests to UK 'public bodies')	www.whatdotheyknow.com/ The 'What Do They Know' website is a voluntary resource set up to help people use the FOI Act and to keep the site's visitors informed about the progress of requests and the information obtained. It has an extensive help guide at www.whatdotheyknow.com/help/about . This explains: 'You choose the public authority that you would like information from, then write a brief note describing what you want to know. We then send your request to the public authority. Any response they make is automatically published on the website for you and anyone else to find and read.' The Information Commissioner says requests must 'be made in writing (this can be electronically e.g., fax, email); state the name of the applicant and an address for correspondence; and describe the information requested.' (www.ico.gov.uk/what_we_cover/freedom_of_information.aspx)

<i>Resource/advice</i>	<i>Details</i>
Guardian Unlimited (guide to FOI)	www.guardian.co.uk/politics/freedomofinformation
Guardian (specific 'how to' FOI guide)	www.guardian.co.uk/politics/2004/dec/30/freedomofinformation.uk2
Open Secrets (an FOI blog by the BBC's Martin Rosenbaum)	www.bbc.co.uk/blogs/opensecrets/ Mr Rosenbaum was the producer of a two-part documentary series for the BBC World Service, <i>The Right to Know</i> , which is downloadable as a podcast from www.bbc.co.uk/documentaries/index.shtml
Your Right To Know (by Heather Brooke, FOI campaigner)	www.yrtk.org/ Brooke, Heather (2006) <i>Your Right to Know</i> , 2nd revised edition, London: Pluto Press. The book is a comprehensive kit and guide on using FOI laws for the purposes of private citizen, NGO and journalistic research. The author is a visiting professor at City University and provides courses and consultancies to organizations such as the UK National Union of Journalists.
Requesting information personal to you	Has to be done under Data Protection Acts 1984 and 1998
Requests to 'public bodies'	What is a 'public body'? Guide at: www.dca.gov.uk/foi/yourRights/publicauthorities.htm
Sample request letter	The <i>Guardian</i> has produced a sample request letter which can be posted, emailed, hand-delivered or faxed: http://image.guardian.co.uk/sys-files/Guardian/documents/2004/12/29/Public_info_lettera_new.doc
Replies to requests	Public bodies are supposed to have an 'FOI officer' and/or a 'publication scheme'. They are supposed to reply to you within 20 days. For an example of a publication scheme see the Goldsmiths College website: www.gold.ac.uk/foi/ .
Complaints	If you are unhappy about the response you can complain to the Information Commissioner: www.ico.gov.uk/ . The Information Commissioner provides detailed briefings and guidance notes on FOI law and a growing body of jurisprudence is developing from decisions of the Information Tribunal. The Scottish Information Commissioner provides a similar resource of information and guidance at: www.itpublicknowledge.info .
Appeals	The next stage in the appeal process is the Information Tribunal: www.informationtribunal.gov.uk/

Continued overleaf

<i>Resource/advice</i>	<i>Details</i>
Refusal of requests	There are twenty-three exceptions to enable public bodies to refuse your request for information. The key ones are: public interest in confidentiality is greater than public interest in disclosure; commercial interests; absolute exceptions (e.g. intelligence agencies and national security); information is accessible by other means; prejudice to effective conduct of public affairs; legal professional privilege; information is intended for future publication; cost is too much.
Cost	Ministers have claimed that most requests for information will be free. If the cost of answering your request is less than £450 (or £600 for central government) it will be free. Officials may ask you to pay for the cost of photocopying and postage. If a request costs more than these limits, a public body can refuse outright to answer your request.
Tips on making journalistic FOI requests	<p>Matt Davis of John Connor Press Associates provides the following tips for journalists making FOI requests:</p> <ul style="list-style-type: none"> • Think of the story before you think of the question. • Immerse yourself in the statistics and language of the organization. • Will the data you want be releasable? • Avoid overcomplicating the question. • The best questions are short and simple. • Ask for comparative data, to put your figures in context. • Ask for an index/chapter head so you can easily find what you're looking for. <p>(Davis <i>Press Gazette</i> 2008)</p>

Table 13.5 Guidance table on using US Freedom of Information Act 1966 and Electronic FOIA Amendments of 1996

<i>Resource/advice</i>	<i>Details</i>
Detailed briefings on FOIA in leading textbooks	Most of the standard textbooks on media law in the USA contain detailed chapters outlining the background, history and <i>modus operandi</i> of freedom of information research at the federal and state levels. See: Zelezny (2004: 234–54); Sadler (2005: 395–422); Moore and Murray (2008: 615–39).
Contacting public information or FOIA officer at relevant agency	A polite request for the records sought will sometimes result in the information's being supplied. The agency's website should disclose FOIA policy and contact details, and sometimes the fee schedule for copying documents.

<i>Resource/advice</i>	<i>Details</i>
FOIA request letter	Zelezny and Sadler provide sample letters. The USA does not have a federal Information Commissioner to provide advice to citizens on how to make FOI requests and to act as a first level of appeal should a request be denied.
Campaigning resources	Visit the Freedom of Information Service Center at www.rcfp.org/foia . This journalists' support organization provides booklets and templates as well as a telephone hotline: 1-800-336-4243. Another comprehensive web resource is offered by the Brechner Center for Freedom of Information based at the University of Florida at http://brechner.org/ . The National Freedom of Information Coalition campaigns for the protection of the public's right to oversee its government and provides annual grants totalling \$220,000 to foster and develop state FOI coalitions: www.nfoic.org/ . Resources are also provided by the US Society of Professional Journalists at www.spj.org/foi .
Recommended handbook	<i>The Federal Open Government Guide</i> (formerly known as <i>How to Use the Federal FOI Act</i>), now into its 10th edition (2003), is published by the Reporters Committee for Freedom of the Press and can be viewed and downloaded at the Freedom of Information Service Center website or obtained from RCFP, 1101 Wilson Blvd., Suite 1100 Arlington, VA 22209.
Advice on making FOIA requests	Make the request precise by identifying records by name, number and date. Accurate descriptions will assist any federal employee who has to search for it. Check if the agency has indexed the records requested, and use this information. Identify the relevant federal agency by using the <i>United States Government Manual</i> (Zelezny 2004: 241).
Advice from Russell Carollo (2006)	Russell Carollo, special projects reporter with the <i>Sacramento Bee</i> , provides these seven tips: <ol style="list-style-type: none"> 1 File FOIAs months and even years before you expect to start on a project. 2 Always use certified [registered] mail and keep a record of everything. 3 Clearly identify the records by doing some research before you file. 4 Every time a FOIA officer contacts you by telephone, make a record of the call, and in that record indicate that you told the FOIA officer at the beginning and end of the conversation: 'I'm not agreeing to any changes during this conversation'.

Continued overleaf

<i>Resource/advice</i>	<i>Details</i>
Advice from Russell Carollo (2006) <i>continued</i>	<p>5 Make changes and modifications in your request only through certified [registered] mail.</p> <p>6 Appeal. You stand at least a 33 per cent chance of getting more information.</p> <p>7 Always ask for a record layout (data dictionary) when you request a database, and tell them you want the complete record layout, naming all fields – including denied fields. Without such a record, it's impossible to know what they left out and impossible to file a real appeal.</p> <p>(See www.rcfp.org/foia/foia411.html)</p>
Agencies' legal obligations	<p>Agencies have 20 working days in which to reply, although delays are not uncommon, particularly if there are complex and multi-document requests. Where there is a compelling need for the information (i.e. for the purposes of journalism) the request can stipulate expedited processing. An entire document cannot be withheld if only small portions are exempt. Many federal agencies will allow journalists to visit their offices to inspect the requested records. News organizations, non-commercial scientific and educational organizations can be charged only for the costs of copying and not for employees' time in conducting the search. A waiver or reduction in fees can be applied for if it can be shown that 'disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the interest of the requester' (Zelezny 2004: 241–2).</p>
Appealing denied requests, non-response	<p>A formal appeal letter should be sent to the principal, president or head of the agency, and the agency chief has 20 working days in which to reply. Template letters are provided by Zelezny in his textbook and are also downloadable at the Reporters Committee for the Freedom of the Press Internet FOI Service Center. Applicants for federal records are entitled to a legal explanation of denial. This explanation is known as a Vaughn Index as it was taken from a 1973 case (Vaughn v Rosen, D.C. Cir. US 1973) in which a federal appeals court declared that agencies are obliged to issue legal reasons for the withholding of each document (Sadler 2005: 399).</p>

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<i>Resource/advice</i>	<i>Details</i>
Suing	Russell Carollo accepts that although there is a cost in going to law, 'if you can, sue. It really gets their attention.' The next step after having no success with the federal agency is to make an appeal to the nearest federal District Court. The agency would have to persuade the court that the records asked for fall within one of the FOI Act's nine exceptions. A study by the Coalition of Journalists for Open Government reported that only about 6 per cent of all FOIA requests came from the media. Many reporters complained that the requests take too long to be processed, public records are getting progressively harder to obtain, and a media industry in recession in 2009 does not have the financial resources to combat a growing culture of FOIA denial – even where the grounds of appeal are unlikely to hold up in court.

The 2009 parliamentary expenses scandal in the UK certainly arose out of FOI activity and litigation, though the scale of public outrage and enlightenment on how British MPs exploited their system of allowances was the result of the data's being leaked in the old-fashioned way, probably for money. When the official FOI release was made it became apparent that the blacked-out documents obtained through the legislation would have covered up exactly what the *Daily Telegraph* was able to expose from the non-redacted and uncensored documents.

The BBC's FOI expert Martin Rosenbaum reminded everyone that the drive to transparency in the expenses story was not assisted by the Information Commissioner, who had ruled: 'It is not necessary for fully itemised amounts to be disclosed in order to meet the legitimate interest of members of the public in knowing how public money has been spent.' (Rosenbaum 2009)

Rosenbaum, though, was sure that 'freedom of information is now in a stronger and more established and entrenched position' and that 'politicians in the UK will now find it very difficult to propose any curbs on freedom of expression.' (Ibid.) The outgoing UK Information Commissioner in 2009, Richard Thomas, said that FOI had come of age and needed more money and that the public 'expect to be treated like grown-ups, with ready access to what is going on.' (Thomas *Guardian* 2009) But the newspaper publishing his article was having to fight for the release of information on the disciplining of 170 judges. In 2008 the Information Tribunal had turned down its request, saying that judicial authority would be undermined and individual judges would be

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distressed. It was four years since the original FOI application had been made. British media groups are going to have to be long on patience and to carry deep pockets in legal costs.

In the USA it is not uncommon for federal FOIA legal battles to result in rulings against media interests. In the 2004 case of *National Archives and Records Administration v Favish*, the Supreme Court ruled unanimously that ten death-scene photographs of Clinton White House counsel Vince Foster should not be released. The 9/11 terrorist attacks in the USA were followed by federal arrests and the detention of around 1,000 suspects, and civil liberties and media campaigning groups sought their identification under the FOIA. The federal courts supported the government's position that such information could endanger the lives of the detainees, give terrorists valuable insight into the conduct of investigations and jeopardize ongoing enquiries and grand jury proceedings. The *New York Times* request under the FOIA for a copy of the recording of the seven crew members of the space shuttle *Challenger* who were all killed shortly after take-off in January 1986 was rejected by a federal court in 1991 (Sadler 2005: 402-4)

But the UK *Daily Telegraph* parliamentary expenses scandal highlights the fact that FOI(A) blocks do not amount to closed censorship. If the information is leaked by whistleblowers it cannot be stopped from getting into the public domain. The existence of a democratic consensus emboldens whistleblowers, who can feel the consent and approval.

In 2009 it seemed likely that the battle by the American Civil Liberties Union (ACLU), with the support of media organizations, to secure the release of all photographs and moving images of the prisoner abuse by US soldiers in Iraq and elsewhere was likely to be heard by the Supreme Court. ACLU et al. had been successful before US District Court Judge Alvin K. Hellerstein in 2005 and the US Court of Appeals in Manhattan (2nd Circuit) in 2008, but in May 2009 President Barack Obama directed his legal team to fight the court-ordered release of the photographs because he was concerned they might 'inflare anti-American opinion and put our troops in greater danger'. The BBC reported a Pentagon official as saying: 'The president had been advised against publication by Defence Secretary Robert Gates, Centcom commander General David Petraeus and the commander of US forces in Iraq, General Ray Odierno.' (BBC 2009)

If the case is heard by the Supreme Court, it is possible that the US media will find its most acute test of the citizen's right to know provided by the FOIA. Previous Department of Defense attempts to resist the release of the photographs of Abu Ghraib images were outmanoeuvred by leaks to the media.

In order to win its case the US government will have to defeat the force of analysis represented in the conclusion of Judge Hellerstein's District Court ruling:

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Suppression of information is the surest way to cause its significance to grow and persist. Clarity and openness are the best antidotes, either to dispel criticism if not merited, or, if merited, to correct such errors as may be found. The fight to extend freedom has never been easy, and we are once again challenged, in Iraq and Afghanistan, by terrorists who engage in violence to intimidate our will and to force us to retreat. Our struggle to prevail must be without sacrificing the transparency and accountability of government and military officials. These are the values FOIA was intended to advance, and they are at the very heart of the values for which we fight in Afghanistan and Iraq. There is a risk that the enemy will seize upon the publicity of the photographs and seek to use such publicity as a pretext for enlistments and violent acts. But the education and debate that such publicity will foster will strengthen our purpose and, by enabling such deficiencies as may be perceived to be debated and corrected, show our strength as a vibrant and functioning democracy to be emulated.

In its most recent discussion of FOIA, the Supreme Court commented that 'FOIA is often explained as a means for citizens to know what "their Government is up to." The sentiment is far from a convenient formalism. It defines a structural necessity in a real democracy.' (Favish 541 US at 171-2) As President Bush said, we fight to spread freedom so the freedoms of Americans will be made more secure. It is in compliance with these principles, enunciated by both the President and the highest court in the land, that I order the government to produce the Darby photographs that I have determined are responsive and appropriately redacted.

(ACLU et al. v Department of Defense DC US 2005)