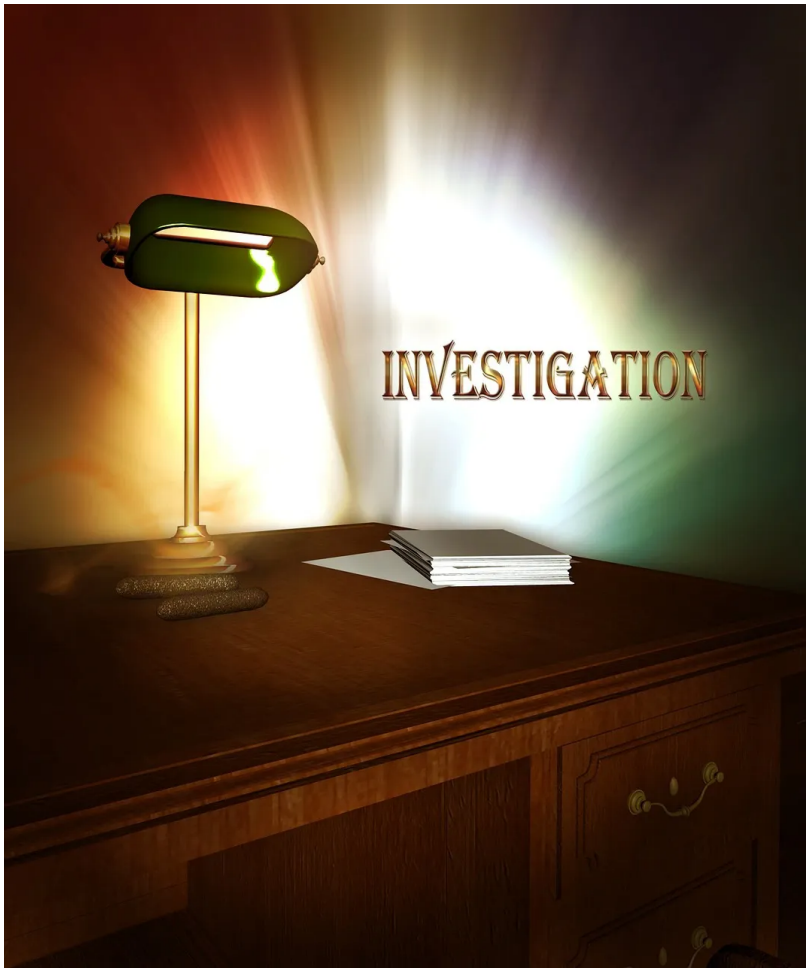


Investigative Reporting 101

A Course for Journalists

By

Mark McGee

The problem with much of 'Investigative Reporting' today is that it often fails the 'investigative' test. I've been watching local television stations and reading stories from 'investigative reporters' for years. Anchors introduce these reporters as 'investigative' and the words 'investigative reporter' appear under their name in lower-third fonts.

Unfortunately, most of them are not doing 'investigative reporting.' The reports are usually what most reporters do in a normal day — cover public meetings and events, go to crime or accident scenes, cover weather events, 'report' information from news releases, etc. That's usually as far as the report goes, which is not technically 'investigative.' Let me explain what I mean.

Investigative Journalism

Here are some definitions of ‘Investigative Journalism’ that you may find helpful —

> Investigative journalism involves exposing to the public matters that are concealed–either deliberately by someone in a position of power, or accidentally, behind a chaotic mass of facts and circumstances that obscure understanding. It requires using both secret and open sources and documents. Global Investigative Journalism Network

> … a type of journalism that tries to discover information of public interest that someone is trying to hide — Cambridge English Dictionary

> It is reporting that relies on the journalist's own enterprise and initiative. Investigative reporting means journalists go beyond what they have seen and what has been said to unearth more facts and to provide something new and previously unknown ... investigative reporting often involves digging up what is secret or hidden. Columbia Center for Teaching and Learning

Notice the emphasis on the words 'trying to hide, hidden, concealed, secret, new, previously unknown.' Investigative reporting should 'surprise' viewers, listeners, and readers. The information should focus on things that people would not know unless you told them.

True investigative journalism is usually something that only one journalist knows about and reports. Investigative journalism is not reporting what people already know, adding a little more detail to what people already know, or reporting what other reporters are saying or writing about a story. Investigative reporting is about uncovering information that people in positions of power don't want the public to know.

Columbia University's Center for Teaching and Learning explains my point pretty well —

> The reality is that daily news coverage is usually not probing or investigative. It reports mainly what officials or institutions say as well as other people's responses to what has been previously said. Much of what we consider "news" are reports on official statements or reactions to official statements. Daily journalism is also mainly about events that reporters have witnessed or interviewed witnesses about—such as a train collision, a demonstration, a criminal being arrested. There is no digging beyond what has been said or what has been seen. Daily news reporting is seldom investigative, it is mostly reactive. Columbia Center for Teaching and Learning

Digging for Information

Investigative reporting — to be legitimately ‘investigative’ — means digging for information that is beneath the surface of what most journalists do every day. Today’s journalists have so many ‘tools’ available to them that I didn’t have in the 1960s, 70s, or early 80s. They have multiple computers on

their desks, access to the Internet via those computers and mobile phones, etc. I didn't have those tools, but I'm glad for the tools I had available to me. I had landline phones, public pay phones, fax machines, hand-held radios, typewriters (manual and electric), news vehicles, etc. I had access to public libraries, law libraries, public records kept in boxes in storage facilities, microfilm of old newspaper stories, etc. The 'essence' of what makes a story 'investigative' has not changed in the last 60 years, but the tools and resources have changed.

Those tools make 'investigative' journalism faster, but not necessarily better. It still comes down to how well a reporter thinks and processes information. Journalists, if they truly want to be 'investigative' journalists, will have to take personal and professional risks to 'uncover' what powerful people want to keep 'hidden.'

Please know that I'm not saying that 'daily' journalism is not important — not at all. That's the kind of reporting that makes up the bulk of a newscast. What I am saying is that 'normal' daily reporting is NOT 'investigative' reporting. I recommend managers, editors, and producers NOT use the word 'investigative' until it is truly an 'investigation' that uncovers what people try to 'hide.' To do otherwise is to 'water down' the meaning and purpose of the word investigative.

I believe that calling reports that are not investigative, 'investigative,' dulls the audience from the power of what investigative reporting really is and the power it has to deeply affect a community in positive ways. I know this is true because I did it for many years in a variety of media. Because of some of my investigations, I received personal threats and attacks for my reporting across several decades. I also led a television investigative team for many years after becoming a news manager. I know what investigative reporting is and what it isn't. I had some good teachers when I was a young journalist — investigative journalists and professional detectives. They helped me see the difference between 'daily' journalism and 'investigative' journalism.

So, what do we do about the problem? We make journalism ‘real’ again. If it’s normal daily news, just present it that way. Don’t hype it by calling it something it isn’t. However, if the reporting is truly ‘investigative’ then call it ‘investigative.’ That’s why words exist — so we can describe what is ‘real.’

Making Journalism ‘Real’ Again

Journalists — please understand that I am trying to help journalism become ‘real’ again. I am not trying to make reporters, editors, producers, and managers feel bad about what they’re doing. I think what’s happened is that journalism has ‘drifted’ through the years, using the wrong titles to describe what journalists are actually doing. Who’s to blame? Consultants? Owners? Managers? I don’t know that we need to focus much time playing the ‘blame game’ on this one. I think the important thing is to get journalism ‘back on track’ to being real again.

Your audience needs to know the news of the day, how the news affects them personally, how the weather will impact their day, what’s going on with their favorite sports teams, etc. That’s expected and perfectly fine. The problem is calling those types of reports ‘investigative.’ Please — save the words ‘investigative report’ and ‘investigative reporter’ for journalism that is really ‘investigative.’

One of the things I want to do this year is help journalists and their managers understand the process of doing ‘investigative journalism.’ I’ve touched on the topic in previous newsletters, but I believe it would help to go deeper into how to ‘uncover’ what powerful people want to stay ‘covered.’

I’ll share thoughts for journalists who cover ‘news of the day,’ as well as journalists who specialize in ‘investigative’ reporting. I hope my thoughts will be helpful to both groups of journalists because we need the best possible coverage from both.

The Basics of Uncovering What's Hidden

Conducting an ‘investigation’ is something every journalist should learn how to do. Whether you are a ‘general assignment’ reporter or an ‘investigative’ reporter doesn’t change the process of how to conduct an investigation. I started as a ‘general assignment’ reporter and eventually worked my way into doing more ‘investigative’ reporting through the process I’m going to share with you in this series.

General Assignment Reporting

The vast majority of journalists in the United States and other countries do what's called 'general assignment' (GA) reporting. Assignment editors, producers, editors, managers, publishers, etc. 'assign' reporters to cover a variety of stories each day. The stories often come out of the 'daily assignment file' that includes information about meetings and other events around the coverage area. Those stories are usually discussed in the daily 'news meetings' with producers, editors, and managers. Managers often ask GA reporters to share story ideas they have as well. All of those story ideas are put in the 'news mix' for discussion before managers decide what each reporter will cover that day.

Some GA reporters are assigned ‘beats’ to cover (e.g. city government, county government, education, crime, courts), so they spend their time attending meetings and events that fall into their ‘beat’ area. They develop relationships with news ‘makers’ and news ‘sources’ that lead to daily news stories. ‘Beat reporting’ is a great place to begin learning how to conduct an ‘investigation’ that can uncover information powerful people try to ‘hide’ from public view.

That’s how I started and how most young journalists begin learning their ‘craft.’ I was fortunate to work for some news directors who were experienced in ‘investigative’ reporting. They taught me a lot about the process. When I was assigned to cover the ‘crime and courts’ beat, that gave me the opportunity to see how law enforcement officers and detectives conducted their investigations into crimes. Many of them were kind to share some of their ‘investigative secrets’ with a young journalist like me. I also learned a lot from coroners and pathologists, both at the scene of crimes and at their offices or labs.

Becoming an ‘investigative reporter’ starts with interest and drive. You have to be interested in uncovering what others want hidden and you have to have the drive to do whatever it takes to uncover what others want hidden. If you’re not interested, that’s okay. Not every journalist wants to do that kind of journalism. Many are fine with covering a ‘beat’ or being ‘assigned’ stories to cover each day. However, if you are interested in doing ‘investigative’ journalism, understand that ‘interest’ will not be enough to make you successful. You will need a lot of ‘drive’ to get it done.

Transitioning from ‘general assignment’ reporting to ‘investigative’ reporting is not easy to do. Depending on the size of your news department, you may be expected to cover assigned stories all day. That’s where having the ‘interest’ and ‘drive’ makes the difference. I worked nights and weekends, after my regular GA shifts, to conduct investigations. I developed sources inside my ‘beat’ areas that would guide me into how to use those nights and weekends to the best advantage for completing an investigation.

Once you do your first, and hopefully successful, investigative report, your manager(s) may see the benefit of allowing you more time during your regular news shift to run down leads and do the ‘hard’ work of uncovering what’s hidden. I’m not a sales person, but I learned how to ‘sell’ an investigative story idea to managers. Winning some awards for investigative reporting along the way doesn’t hurt. You may find yourself doing more investigative stories because your manager(s) will see the benefit.

Eventually, ‘investigative reporting’ might become your ‘beat’ area, but even if it isn’t you’ll have the satisfaction of knowing you can do an investigation and help your audience and community through what you ‘uncover.

Entering With Eyes Wide Open

I want to be brutally honest with you. There are some serious downsides to being an investigative reporter. Once you know what they are and consider the impact they may have on your life, you can make a reasoned decision about whether to move forward into the world of ‘uncovering’ what people want ‘hidden.’

The following list is based on my experience as an ‘investigative’ journalist. Other journalists may not experience the same challenges. However, I do believe all journalists who step into the world of ‘investigative journalism’ will experience pushback from powerful people who don’t want their secrets revealed.

The purpose of this particular article is to help you enter investigative journalism with ‘your eyes wide open.’

Unpopularity with Powerful People

Many of your investigations will involve ‘powerful’ people. By ‘powerful’ I mean the type of people who can control information and even ‘cover up’ things that the public has the right to know. You may find yourself investigating current or former government officials, judges, police chiefs, sheriffs, owners of small and large businesses, CEOs, criminal gang leaders, etc. Anyone who doesn’t want you to know

something that the public has the right to know can become the ‘target’ of your investigation.

Investigating powerful people will not make you ‘more popular’ with those people. In fact, just the opposite. Not only will you become ‘less popular’ with them, many will despise you and put everything imaginable in your way toward finding and uncovering the truth they’re trying to keep hidden.

Unpopularity with Your Audience

This may come as a surprise to some journalists, but not everyone in your audience may like what you uncover during an investigation. Eyes wide open - deal with it. If you want to be an investigative journalist, don't expect to be popular with everyone. You will endear yourself to some in your audience who will see you as having the courage to bring what was 'hidden' into the 'light.' Some will not see it that way. Just know that going into this journalism 'niche.'

Danger of a ‘Power’ Setup

Powerful people often know how to protect themselves from ‘prying eyes.’ They’ll sometimes put legal and even physical ‘roadblocks’ in your way to keep you from uncovering their secrets. Learn how to use various legal ways to get the information you need. ‘Sources’ that you can identify and are verifiable are very helpful. However, powerful people often know how to ‘shut down’ your sources through bribes, threats, etc. Develop as many sources as you can and do your best to convince them to ‘do the right thing’ when the powerful make things tough.

The reason I mentioned the ‘power’ setup is because it happened to me. I won’t go into detail to protect my sources, but I was warned that I was going to be set up in a way that would lead to my being arrested on phony charges. The problem, according to my sources, would not be the phony charges but what would happen to me once I was inside a jail and behind bars. I heeded their warning. That kind of danger goes with the job.

Potential of Being Fired

The potential of powerful people putting pressure on your employer to fire you is real. That's something I experienced personally. It's helpful to have news directors, editors, and general managers who won't be bullied by the powerful.

My experiences with powerful people trying to get me fired because I was investigating them goes back decades. I'm afraid the current climate for investigative journalists has changed in some situations. I'm concerned about powerful people using 'cancel culture' to shut down journalists and even get them fired. Attacks and smears on journalists in social media and even from other news outlets is making the job tougher than when I was on the street. Maybe that will change some day, some way. I hope so.

Potential of Going to Jail

I know what it's like to sit in the witness chair and be asked to reveal a 'source' to a story. I also know what it's like to refuse to reveal my source and have the judge look at me and demand that I reveal my source or be in contempt of court. I politely refused the judge's demand. Fortunately, my attorney was able to demonstrate that the opposition could get the information without my having to reveal my source. I didn't go to jail that day — but came 'very' close. I was threatened with that possibility in other situations, but stood my ground then as well. If you're going to be a journalist, especially one who does investigations, prepare to be put in that position some day.

Personal Danger

I've been physically attacked by powerful people and criminals. So were members of my investigative team. I've been yelled at and threatened with physical action. Being a martial arts instructor gave me the confidence to handle those situations, but having a gun pointed at your head or being attacked by an angry mob takes physical threats to a new level.

Fortunately, I'm still here to write about it. Not everyone else is so fortunate. Many investigative journalists have to deal with serious beatings, and some have been killed for investigating powerful and often dangerous people.

In Conclusion

Please understand that I'm not trying to talk journalists out of investigating powerful people. We need more journalists who have the courage to do that work. My purpose is to be as honest and forthcoming as I can about what investigative journalism can become. I was also an investigative manager and hired investigative journalists, photographers, and producers. We always discussed the same potential 'negatives' of the job before hiring them. I wanted them to enter the job with their 'eyes wide open.'

Some investigative journalists may never face any of the challenges I've described above, but I wouldn't count on it. If you take on powerful people, you will eventually feel the impact of their 'power.'

The first rules of self defense are 'Be Aware and Beware.' The same is true for investigative journalists. Watch your back. Someone is not going to like where you're headed.

First Amendment Rights?

We live at a time where ‘powerful people’ are doing everything in their ‘power’ to shut down investigative reporters. Some journalists have been fired — some imprisoned or even murdered. I’d like to introduce you to some of them today and what they’ve gone through while trying to ‘uncover’ what powerful people didn’t want people to ‘know.’

You may or may not agree with the findings of some of these journalists, but my point is to demonstrate what investigative journalists may face as they do their jobs. I’ll share examples from three investigative journalists in the United States and two from other countries in this article.

Catherine Herridge

I want to begin with Catherine Herridge. She was a senior investigative correspondent for CBS News until she was fired in February. Many journalists have expressed concern about her firing for a couple of reasons —

> The acclaimed CBS reporter who was investigating the Hunter Biden laptop scandal before she was fired last week had her personal files seized by the network in an “unprecedented” move, sources told The Post on Thursday.

> Catherine Herridge — who is the middle of a First Amendment case being closely watched by journalists nationwide — was among 20 CBS News staffers let go as part of a larger purge of hundreds of employees at parent company Paramount Global.

> Her firing had stunned co-workers, but the network's decision to hold on to her personal materials, along with her work laptop where she may have other confidential info, has left many staffers shaken, according to insiders. New York Post

The House Judiciary Committee launched a probe into Herridge's firing and CBS' reported seizing of her personal records. CBS is said to have responded that the decision to retain Herridge's confidential files was 'nothing unusual' because the files and other personal documents 'essentially belonged to the network.' However, after pressure from the House Judiciary Committee and the union representing Herridge, CBS returned the files to her.

Herridge is also dealing with another issue concerning a story she covered for Fox News in 2017. She refused to reveal her source for her story, so a federal judge held her in contempt and fined her $800 a day until she reveals her source. The civil contempt ruling is pending potential appeal. Herridge declined the order saying — "respectfully I am invoking my First Amendment rights in declining to answer the question."

Both cases could have serious ramifications for journalists, so reporters are watching the outcomes closely. The potential of a media company and its managers firing a journalist and confiscating ‘personal’ files could have a ‘chilling’ effect on future investigations.

Many journalists are leaving traditional media outlets to conduct their investigations independently for these and other reasons. Here’s one notable example —

Bari Weiss

Bari Weiss was an opinion writer and editor at the New York Times from 2017 to 2020. Prior to that she worked at The Wall Street Journal and Tablet Magazine. Weiss 'rocked' the journalistic world in 2020 when she left the Times and wrote an 'open' resignation letter —

> Twitter is not on the masthead of The New York Times. But Twitter has become its ultimate editor. As the ethics and mores of that platform have become those of the paper, the paper itself has increasingly become a kind of performance space. Stories are chosen and told in a way to satisfy the narrowest of audiences, rather than to allow a curious public to read about the world and then draw their own conclusions. I was always taught that journalists were charged with writing the first rough draft of history. Now, history itself is one more ephemeral thing molded to fit the needs of a predetermined narrative.

My own forays into Wrongthink have made me the subject of constant bullying by colleagues who disagree with my views. They have called me a Nazi and a racist; I have learned to brush off comments about how I'm "writing about the Jews again." Several colleagues perceived to be friendly with me were badgered by coworkers. My work and my character are openly demeaned on company-wide Slack channels where masthead editors regularly weigh in. There, some coworkers insist I need to be rooted out if this company is to be a truly "inclusive" one, while others post ax emojis next to my name. Still other New York Times employees publicly smear me as a liar and a bigot on Twitter with no fear that harassing me will be met with appropriate action. They never are.

Weiss founded an independent company called 'The Free Press' — "built on the ideals that once were the bedrock of great journalism: honesty, doggedness, and fierce independence. We publish investigative stories and provocative commentary about the world as it actually is—with the quality once expected from the legacy press, but the fearlessness of the new."

Andy Ngo

One of the better-known independent investigative journalists who have experienced physical attacks is Andy Ngo. He currently works at The Post Millennial as the ‘editor-at-large.’ Ngo has also reported for the Wall Street Journal, Newsweek, National Review, New York Post, Fox News, and others. He came to many people’s attention for his coverage of Antifa a few years ago. His beating in Portland, Oregon was captured on video. Ngo sued members of Antifa for damages from two separate attacks, but a Portland jury ‘concluded there wasn't enough evidence to fault them for the attacks.’

Elena Milashina

Elena Milashina is an award-winning investigative journalist from Russia. She was savagely beaten in Chechnya last summer, along with attorney Alexander Nemov.

> A prominent Russian investigative reporter has received a brain injury and multiple fractures when she and a lawyer accompanying her were brutally beaten by unidentified assailants in the Russian province of Chechnya, her newspaper said Wednesday.
>
> Novaya Gazeta journalist Elena Milashina and lawyer Alexander Nemov were attacked Tuesday soon after they arrived in Chechnya to attend the trial of the mother of two Chechen dissidents. Just outside the airport, their vehicle was blocked by three cars and a dozen unidentified masked attackers, who beat them with clubs and put guns to their heads. Milashina and Nemova were evacuated to Moscow for medical treatment later in the day. Associated Press

Two months after the brutal attack, Milashina planned to return to Grozny to continue reporting on the story.

Visar Duriqi

Visar Duriqi is an investigative reporter from Kosovo. He was also beaten for doing his job —

> Duriqi, a reporter for the news website Insajderi, was returning from a television appearance, where he and other analysts discussed the arrest Wednesday of 12 public employees accused of corruption.
>
> The attackers beat Duriqi, breaking four of his teeth and his nose.
>
> Kosovo's acting Prime Minister Avdullah Hoti described the incident an "attack on free speech" that is "unacceptable," and urged police to find the perpetrators. VOA News

The Point

The point of this article is simply to demonstrate what I wrote about in last week's newsletter. Investigative journalists can be fired, driven to resign from their jobs because of opposition from management and other journalists, severely beaten, imprisoned, and even killed.

According to the Committee to Protect Journalists (CPJ) —

- 18 journalists have been killed so far this year
- 78 were killed last year
- So far this year 64 journalists are missing
- 320 journalists were imprisoned last year

Investigative reporting is not for the 'faint of heart.' It takes courage and passion — something we need more of in today's journalism.

'Going Undercover' to Get the Story

One way for an investigative journalist to ‘uncover’ what someone in power wants to keep hidden from the public is to go ‘undercover.’ What does it mean for an investigative journalist to go ‘undercover?’

It could mean that a ‘known’ journalist meets with or communicates with a ‘powerful’ person without that person knowing that the journalist is recording the conversation. It could also mean that an ‘unknown’ journalist meets or communicates with a ‘powerful’ person who doesn’t know that person is a journalist who is recording the conversation.

I’ve been involved in both types of ‘undercover journalism,’ so I will share some thoughts from my own experience along with insights from others.

‘Known’ Undercover Journalism

A journalist who is ‘known’ in a community should be aware of the laws in his or her state that would impact their doing ‘undercover’ journalism. Most states allow for a journalist to talk with someone and take notes from the meeting. If the reporter is with the person, they’ll be able to see that they are taking notes. However, if the reporter is on the phone with the ‘powerful’ person, that person will not know the reporter is taking notes. Does your state have any laws that would not allow you to use those notes as part of your story?

An ‘undercover’ process might include what I call a journalistic ‘debrief’ where the reporter meets with the ‘powerful’ person without taking any notes. The reporter would ‘debrief’ themselves after the meeting by writing down as much as they could remember from the meeting. Reporting that way can have its challenges and possible lawsuits if no one else witnessed the conversation other than the reporter and the person. Again, check laws in your state to see what legal liability you might have in that situation. Even if your state has no laws against doing that, keep in

mind that a ‘powerful’ person might claim they talked with you ‘off-the-record.’ How would you prove you had not agreed to go off-the-record? It would be your word against theirs.

That’s why some ‘known’ journalists use hidden recording devices for private meetings with ‘powerful’ people. They may ‘wear a wire’ where the recording device is in another location. They may record the conversation with their smartphone or carry a small audio or video recording device into the private meeting. Is that legal? Can you use those recordings in a broadcast story? Can you use quotes from those recordings in a print or online story?

Depends on the state where you report. Some states have a ‘one-party consent’ law (e.g. Arizona, Georgia, Ohio), while other states have an ‘all-party consent’ law (e.g. Delaware, Florida, Washington). Some states have a ‘mixed consent’ law depending on whether the conversation is in person or on the phone (e.g. Connecticut, Nevada, Oregon). Check your state’s laws and know your rights as an ‘undercover’ investigative journalist.

‘Unknown’ Undercover Journalism

Many journalists are not ‘known’ in their community. By that I mean they may not be recognized by face or name. Those people may be photojournalists, producer journalists, or editor journalists. They may even be journalists from another community or state. Many media companies own multiple newspapers, TV stations, etc. It’s not uncommon for them to send a journalist from one community into another to do undercover work.

These journalists may use their real names, though they would not identify themselves as working for a journalistic organization. They may use a fictitious name so that the ‘target’ of their investigation can’t identify them through an Internet search. As manager of an I-Team (Investigative Team) in a one-party consent state, I would send ‘behind-the-scene’ members of our team into situations where they would gather information through personal observation and conversations — and the use of recording devices.

I will tell you that having a good legal advisor available is important when doing ‘undercover’ journalism (known and unknown). I often ran investigative scripts, audio, and video by legal advisors before going to air with a story that involved ‘undercover’ journalistic techniques. Skilled libel and first amendment attorneys can be invaluable to investigative journalists.

Undercover Journalistic Ethics

Some people might wonder whether ‘undercover journalism’ is ethical. I think that’s a question worth discussing. As a former member of many journalist organizations through the years I can tell you that it was a question often discussed among news managers and investigative journalists. If you work in a one-party consent state, you are most likely protected from ‘successful’ legal liability (though not always). However, that still doesn’t answer the question of whether doing undercover journalism is ethical.

My own view is that ‘undercover’ journalism should be a technique of ‘last resort.’ I do believe it is an ethical part of real journalism when there is no other way to uncover what powerful people are ‘hiding’ from the public and when that information is ‘vital’ to the public interest and/or public safety.

I prefer ‘direct’ confrontation with powerful people in government and business. I want them to see my face and my camera or any other recording device I may use. By ‘confrontation’ I don’t mean getting into a physical altercation with someone — though I have been attacked on several occasions because I appeared in person with a recording device or notebook in hand to take notes. I prefer that people see me coming with camera rolling. Some people call that an ‘ambush’ interview. I view it as using the tools of my trade — just like a carpenter would walk up to the job site with a tool belt around his or her waist. A tape recorder or video camera were among my ‘tools’ as an investigative journalist, along with my ever-present notebook and pen. If someone didn’t want to talk with me or answer legitimate questions about things the public had a right to know, they could walk away — as many did. That’s what viewers would hear (radio), read about (newspaper or online), or see (television) in my story.

Of course, it's important that you remember the laws in your state concerning 'personal privacy.' Is the person is an 'elected official,' a 'public person,' or a 'private person' in the eyes of the law? Those are discussions you should have with your news manager — and possibly a legal advisor — before starting what could become a contentious confrontation. Some people may sue you for 'defamation of character,' or 'libel' because of your story, so be prepared. Being sued is one issue, but 'losing' a lawsuit is much worse than being sued.

If you're going undercover for a story, do it 'by the book,' and expect to be sued. If you have the mindset that you will or may be sued, it will often help you do everything correctly — or at least the best you can.

One Example of Undercover Journalism

James O'Keefe is an investigative journalist who has caused quite a stir within the journalistic community. He started Project Veritas in 2010 'in the wake of Hannah Giles' successful ACORN Investigation.' One of the primary techniques O'Keefe and his investigative team used was 'unknown' undercover journalism. They used hidden cameras to record conversations with 'powerful' people or people with access to 'power.' The investigators often did not reveal their true identity or purpose for recording. Many journalists believe O'Keefe's tactics are 'deceptive.' They also accused him of being biased against mainstream and progressive media outlets.

O'Keefe has since left Project Veritas and started the O'Keefe Media Group for the purpose of creating a 'citizen army of journalists.' Many journalists (especially independent journalists) believe that 'undercover' investigative journalism may be the only way to get 'truth' to the public because the mainstream and progressive media are not allowing the truth to be told.

Looking Back to Look Forward

The best way to look forward is often to look backward. If journalists want to know how to navigate the challenges of uncovering the information powerful people don't want the public to know today, I recommend looking into recent history to see how investigative journalists were successful in doing what you want to do.

I began learning how to do 'undercover' investigative journalism in the 1960s. However, the people who trained me had learned their craft many years earlier. So, how far back did 'modern' undercover investigative journalism go?

A Brief History of Undercover Investigative Journalism

The research I've done on the subject took me back to the early part of the 19th century. Journalism in America was active from the 17th century, especially against what many saw as the abuses of English control of the colonies. I've written about that before, but what I wanted to see this time is when journalism became investigative, especially as it relates to our current topic of 'undercover' investigative journalism.

Alexander Hamilton started the New York Post in 1801, just three years before being killed in a duel with Aaron Burr. Hamilton was a 'founding Father' of the United States and a Federalist. President George Washington appointed Hamilton as the country's first Secretary of the Treasury.

The Post was the first of many newspapers that would be started in the 19th century. Editors and their writers (journalists) reported on national and international events, in addition to local news. The public's interest in newspapers grew as literacy grew during the 1800s. Technology also played a factor with advances in communication (the telegraph) and transportation (railroads). Though much of early newspaper writing was based on the partisan opinions of editors and writers, there were some journalists who were interested in uncovering 'facts and evidence' as they pertained to powerful people of their day. Subjects they wrote about prior to the Civil War included the slave trade and human rights. Subjects after the war included reconstruction and rights for former slaves.

Some of the more interesting undercover investigative journalists of the 19th century were the ‘Girl Stunt Reporters’ —

> The 1880s and 1890s witnessed a revolution in journalism as publisher titans like Hearst and Pulitzer used weapons of innovation and scandal to battle it out for market share. As they sought new ways to draw readers in, they found their answer in young women flooding into cities to seek their fortunes. When Nellie Bly went undercover into Blackwell’s Insane Asylum for Women and emerged with a scathing indictment of what she found there, the resulting sensation created opportunity for a whole new wave of writers. In a time of few jobs and few rights for women, here was a path to lives of excitement and meaning. After only a decade of headlines and fame, though, these trailblazers faced a vicious public backlash. Accused of practicing “yellow journalism,” their popularity waned until “stunt reporter” became a badge of shame. But their influence on the field of journalism would arc across a

century, from the Progressive Era “muckraking” of the 1900s to the personal “New Journalism” of the 1960s and ’70s, to the “immersion journalism” and “creative nonfiction” of today. Bold and unconventional, these writers changed how people would tell stories forever. The Hidden History of America’s ‘Girl Stunt Reporters’

Nellie Bly (born Elizabeth Jane Cochran) started her journalism career working as a reporter for the Pittsburgh Dispatch. She used the pen name ‘Nellie Bly,’ which came from a popular song of the day. She wrote about living in the slums of Pittsburgh, and the tough working conditions that young women faced. She was expelled from Mexico after investigating government corruption there in the late 1880s.

As mentioned above, Bly may be best known for the undercover investigative journalism she did for the New York World. She pretended to be insane, which led to her commitment to an asylum. She wrote about her experience, which led to a grand-jury investigation of the asylum and improvements to patient care. Bly also uncovered problems with ‘sweatshops, ’ and corruption in government (including bribery by lobbyists).

‘Muckraker’ Journalism

A ‘muckraker’ is defined as someone who searches out and publicly exposes — “real or apparent misconduct of a prominent individual or business “ (Merriam-Webster Dictionary). The noun ‘muckrake’ comes from a ‘rake for muck’ (i.e. manure). John Bunyan used the term in his famous 17th century book ‘Pilgrim’s Progress’ as representative of how people are preoccupied with earthly things.

‘Muckraker journalism’ grew in the early part of the 20th century. Investigative journalists like Ida Tarbell, Ray Baker, Lincoln Steffens, Charles Russell, Brand Whitlock, Edwin Markham, and others investigated government and political corruption, insurance fraud, industrial monopolies, corrupt business practices, stock market abuses, child labor abuses, problems with food inspections, etc. Their style of investigative journalism, including ‘undercover,’ led to many important ‘exposes.’

Lincoln Steffens wrote for McClure's Magazine and published an expose in the early 1900s about corruption between city officials and business leaders. Steffens continued to investigate and write until the articles were published in a book titled 'The Shame of the Cities.' The public responded by demanding reforms within city governments.

Ida Tarbell also wrote for McClure's Magazine. She wrote about corruption in business that led to monopolies, including The History of the Standard Oil Company in 1904. That led to the breakup of Standard Oil into more than 30 different companies because of the violation of antitrust laws.

‘Professional’ Investigative Journalism

Muckraking journalism eventually came to a close prior to 1920. The era of ‘professional’ investigative journalism began after that as students studied at ‘journalism schools’ (e.g. Columbia University, University of Missouri). Those schools grew to emphasize the importance of journalists being ‘neutral’ and ‘objective’ in their reporting. As more students graduated and were employed by newspapers, and eventually broadcast news organizations, journalism became known as a ‘profession.’

I’m glad for the emphasis on ‘professional investigative journalism’ because it influenced the people who trained me and the people I trained. Journalists should hold themselves up to a higher standard because of the importance of what we do for the citizens of our country. That is the purpose of this Real Journalism newsletter.

Unfortunately, we have a couple of major problems with modern-day investigative journalism. First, the work of only a small number of journalists meets the standards of being 'investigative.' Though many reporters are called 'investigative journalists' in bylines and lower-thirds, many are not. Second, a large number of today's journalists are no longer 'neutral' and 'objective.' It's interesting how our 'profession' has changed in the last 100 years, and often not for the better — in my humble opinion.

We need to return to the 'passion' and 'courage' of early investigative journalists (including 'undercover' work), while holding up the standards of our 'profession' developed during the past century. I find it very sad to see such a noble profession necessary to the freedom of our nation divided by partisan political and social beliefs.

We are, or at least should be, better than that.

‘Legal Protection’ in the Toolbox

If you choose to do ‘undercover’ investigative journalism, you will need some special ‘tools and skills’ to be successful. One of those tools is legal protection for doing your job. It has long been my belief that the First Amendment is enough to protect journalists from local, state, and federal governments. The Founders designed a government where journalists would be protected from undue government influence and control. However .. powerful people have done their best through government and business to take away legal protection from journalists who work to uncover what they (the powerful) want to keep hidden from the public. So, what does that mean for investigative journalists?

Legal Protection

If the First Amendment to the Constitution is not strong enough to legally protect journalists, then we need help from lawmakers who can enact laws that codify protection. Many other professions have legal protection from revealing private source information — known as 'privilege.' You've probably heard of 'attorney-client privilege' and 'doctor-patient privilege,' so why not 'journalist-source privilege?'

That's something I dealt with for years as an investigative reporter, then later as a news manager. While I believed the First Amendment was our strongest tool in the legal toolbox, I began to agree with fellow journalists that we needed even more protection, especially after the Supreme Court's 5-4 ruling in the 1972 Branzburg v. Hayes case. The Court ruled that the 'press' did not have a Constitutional right of protecting confidential sources in a grand jury proceeding. Though the ruling had some 'limits' attached, it was of great concern to people like myself who used confidential sources in news stories.

Shield Laws

That ruling by the high court led journalists to battle for legislative protection on a state-by-state basis. That type of protection became known as a ‘shield law’ for journalists. As a member of journalist groups like the Society of Professional Journalists (SPJ), Radio and Television News Directors Association (RTNDA), Reporters Committee for Freedom of the Press (RCFP), Investigative Reporters and Editors (IRE), and other groups, we worked to get state legislators to understand the need for more legal protection for journalists. Many state legislative bodies passed laws that gave journalists some ‘reporting privilege.’ You can look at this map of the US to see which states passed laws and what the laws do for journalists. While some states voted to give journalists ‘absolute protection,’ other states passed laws that were not as protective, or didn’t pass any law. I will tell you that ‘absolute protection’ Shield laws can have exceptions, so know as much as you can about those exceptions.

I recommend to all journalists, and especially to those who do investigative work, that they learn what type of ‘shield law’ they have in the state or states where they cover news. I’ve worked in states that had a strong shield law and states that had a weak shield law. I’ve also worked in ‘border’ areas where my coverage of news would take me into two or more states. You may be protected in one state, but less in another. It’s vital that you know what’s in your ‘legal toolbox’ wherever news may take you.

The PRESS Act

As many of us battled to get Shield laws passed in individual states, we often talked about getting a ‘federal’ Shield law that would cover every state. The Free Flow of Information Act was introduced in Congress in the early 2000s, but has not passed — yet.

A new version of that idea has some bi-partisan support in Congress. It’s known as the PRESS Acts (Protect Reporters from Exploitive State Spying). Democrat Jamie Raskin and Republican Kevin Kiley introduced the bill in June of 2023 and it passed the House. Senators Ron Wyden (D-Oregan), Mike Lee (R-Utah), and Richard Durbin (D-Illinois) introduced a companion bill in the same month. Here’s how it reads —

This bill prohibits the federal government from compelling journalists to stand providers of telecommunications services (e.g., phone and internet companies) to disclose certain protected information, except in limited circumstances such as to prevent terrorism or imminent violence.

Specifically, the bill protects from disclosure any information identifying a source, as well as any records, contents of a communication, documents, or information obtained or created by journalists in the course of their work.

Further, the bill protects specified third parties, such as telecommunications carriers or social media companies, from being compelled to provide testimony or any document consisting of a record, information, or other communication that is stored by the third party on behalf of a journalist. congress.gov

Investigative reporter Catherine Herridge, who I wrote about a few weeks ago, appeared before Congress recently in support of the PRESS Act. She appeared there with Sheryl Atkinsson, another CBS investigative journalist who had challenging experiences with government intrusion into her reporting. You can watch the full House Judiciary Committee's subcommittee hearing with Herridge and Atkinson here.

If the PRESS Act is passed and signed into law, this will be another tool that you can add to your 'legal toolbox.' Whether it passes or not, know how you can use your First Amendment rights (e.g. Free Speech, Free Press), along with rights you have from states and the federal government, to protect yourself and your sources.

If you are a news manager, consider holding some seminars or clinics for your journalists. You can invite First Amendment legal experts to share insights with your team. Many newspapers and broadcast stations have lawyers who would be available for those seminars. You might also consider investing in memberships for some of your team to groups

like SPJ, IRE, etc. They could share with your team what they learn through their membership and attendance at local, regional, or national meetings.

‘Technical Tools’ for Your Toolbox

The ‘tools’ that investigative journalists have used through the past century have changed dramatically — especially in the last 20 years. We’ve moved from paper, to film, to tape, to digital. We’ve moved from ‘larger to smaller’ in the size of technical tools through the years. We’ve moved from ‘wired to wireless,’ which allows journalists more freedom of movement to do undercover work. The size and type of batteries have also changed to allow for smaller equipment with longer recording time. Some journalists even use their smartphones for sound and video recording.

I remember the first ‘hidden camera’ I bought for undercover work, and it was about the size of a tube of lipstick. It was ‘wired’ to a recorder, so it was difficult to hide. Our I-Team used a variety of ‘mesh’ hand carriers for the hidden camera and recorder. Sound was okay, but recording video through mesh material was a little hard to watch. However, it was what we could afford to use at the time.

The options today are much better. The size is smaller and the quality is higher. Journalists can hide cameras or recorders in glasses, ball caps, pens, shirt or coat buttons, watches, glasses, etc. Hidden cameras are commonly used by parents (sometimes called ‘nanny cams’), employers, journalists, and others — hidden in everything from a clock to a lamp to a teddy bear. They are small and inexpensive with a quality high enough for broadcast (1080 pixels is good enough).

The type of undercover work you’re going to do will determine what kind of equipment to purchase. Will you be inside or outside? Will you be recording in low light, normal light, or high light? How long will you need the recorder to record (battery length)? Will you be in a position to plug in a battery or will you need back-up batteries? Will you need a wireless recorder or will hard-wired work better for your purposes? Will your recording be close range, medium range, or long range?

If your recording will be long range, you may want to consider a 4K camera for quality as you push in to get closer to the subject. If you can't afford 4K, then go with what you can afford. You can always explain to viewers what they're seeing. You can also look into long-range lenses for your camera — similar to what still photographers use. As for sound at long range, you can consider a variety of 'parabolic' listening devices.

Do some research and you'll discover how much technology is available for investigative journalists. I also recommend you research the laws in your state that may impact your legal rights to use hidden microphones and cameras.

The Dangers

One of the dangers of doing undercover journalism, especially if you're using a hidden camera or voice recorder, is your subject discovering that you are recording them. Governments, businesses, and criminal groups have become more savvy about investigative journalism techniques. They may have counter-intelligence equipment that can detect your 'hidden' devices. Just be aware of that before going into a dangerous situation. The more you know about your subject the better for your own safety and the success of your investigation.

Talk about all aspects of an undercover operation with your news manager. That includes the dangers involved. Those dangers can go beyond the process of 'gathering' information. Consider the impact your story will have on people surrounding the subject. Will your story put them in danger? Will your story put your family, friends, or colleagues in danger? Some stories have unintended consequences to innocent people. Investigations have led to people losing jobs, even their lives (murdered or committed suicide).

All of that should be considered before launching an investigation, or at least before publishing or broadcasting the story. You don't have to reveal every detail you've learned and every recording you've made. You can put your story together in a way that gets the information to the public, while protecting some innocent lives. It's difficult to do stories that bring down powerful people with no fallout on innocents, but it is worth taking the time to consider them before 'breaking' the story.

Another danger to consider is trying to 'rush' the story on air, online, or in print. Investigations need to be timely, but they need to done well. Trying to be first with a story when the story is not ready for publication can bite you in the end. Think it through carefully. Get the advice and guidance of your news managers, senior journalists on your team, and from your legal counsel.

Documenting Your Investigation

I chose this photo because it reminds me of where I spent much of my time as an investigative reporter — in archive centers of courthouses, city halls, and other ‘official’ places looking for records that would help ‘document’ my stories.

Records of all types are ‘essential’ to investigative reporters. Why? Because an official record helps support what you say is true. Anybody can claim anything, but an official document demonstrates that you are not just ‘claiming’ something to be true. You have ‘evidence’ that what you are reporting is true.

Journalists do it all the time on television. They hold up a news release or other document that supports their version of a news story. Some journalists will hold up the document for a few seconds before the director cuts to a graphic quoting a specific aspect of the document the reporter is addressing. That’s ‘basic’ journalism. It’s good to do and helps the reporter, but ‘investigative’ journalists take documentation to another level.

I used to call the process DTD, ‘digging through documents,’ because that’s literally what I did. I went through boxes filled with documents and ‘dug’ through them until I found something that either ‘proved’ or ‘disproved’ something in my story, or ‘guided’ me to look for other information that might tip the investigation in one direction or another.

Investigative journalists need to see every document involved in a story — not just the ones that support their ‘theory.’ Theories are not what we should report — truth is our goal. Finding the ‘truth’ means digging through every document until we’re sure we’ve exhausted our search and found what’s true about any story.

Paper Trails

Another phrase investigative journalists learn is to ‘follow the paper trail.’ The ‘paper’ I’m talking about are the ‘documents’ involved in a document search. Following the ‘paper trail’ means that one document leads to another to another to another, etc.

Paper ‘trails’ can begin with one piece of paper (or one email or one text), or notebooks full of papers. I remember one investigation that started decades ago when someone dropped off a large package at the TV station where I worked. I opened the package and it contained almost 500 pieces of paper. That was a lot to go through, but it eventually led me to an important story that impacted many people in the viewing area.

I remember other investigative stories that began with just one piece of paper and grew into dozens, scores, or hundreds of pieces of paper. Whether you find one document or hundreds of documents, build your paper 'trail' as an important part of the evidence you'll use in your investigative report.

You may be surprised at how many of the documents you will need for an investigation are already available to the 'public.' You will run into some 'secret' documents during some investigations, but much of what you will need to support your story is sitting in a dusty box or on an archive website just waiting for an enterprising journalist to find.

I'll share more about the types of documents available for members of the public to read as this series continues, but I'd like to begin by sharing a few thoughts about 'process.' Knowing how things work, or are supposed to work, will point you to the types of documents you will need to find.

The Process

If you plan to make investigative journalism a major part of what you do in your career, I recommend you begin by learning ‘process.’ How are things supposed to work in the area you’re investigating? What’s the established process? If you know how the process is supposed to work, you’ll look for the documents that may show how someone did or did not follow the process.

It’s a simple question — how is (_____ fill in the blank) supposed to work? It might be the police department, a government agency, an elected official’s office, a clerk’s department, a business, a school board, etc. It really doesn't matter what you investigate. That question will always serve you well — ‘what’s the process?’. If you know how any branch of government or business is ‘supposed’ to work, you won’t fall for the lies of powerful people who will try to ‘hide’ information from the public or point you in the wrong ‘direction.’

It's difficult to hide anything from someone who knows where to look. How will you know where to look in any investigation? First thing — learn how things are supposed to work — then follow the process. Follow the paper. Follow the money. Follow the people. That's how you can shine a bright light on lies and reveal the truth to your audience.

Imagine that you're investigating how a local government office awards bids on a particular public project (e.g. building a public park or new library, renovating a school or police precinct, etc). You will need to know how the 'bid process' is supposed to work. That way you can ask for all of the documents involved in the bidding on that project. Because you know the process and the 'bid rules,' you'll be able to spot someone in government not following the 'regulated' process. That may lead you to breaking a big story in your community about how an elected or public official or government employee made sure a project bid went to a family member, friend, or accomplice. You may discover they are receiving financial kickbacks or other types of favors for 'guiding' the process through a back door.

Hundreds of thousands of taxpayer dollars may be finding their way into the pockets of crooked officials and business people in your community. The numbers are in the millions of dollars for state projects — and billions of dollars for federal projects. You don't have to be a network journalist to uncover theft of taxpayer money. If the state or federal governments are working on any public projects in your community, you have the right to investigate and report.

How to Start

If you're new to investigative reporting, I recommend you start small. 'Small' doesn't mean 'unimportant.' It just means you put your toe in the water before diving into the deep end of the 'investigative pool.' Take on a few smaller investigations, learn from what you do right and what you do wrong, then you'll find yourself ready to swim out toward the deep end.

What I plan to share with you during the upcoming weeks should help you make your start. If you're already swimming in deeper water, then you'll recognize what I'll be describing. Feel free to add some of your own insights in the Comments section below. That will be helpful to others interested in learning how to investigate graft and corruption.

Our communities, regions, states, and federal governments are struggling in many ways today. I lay some of the blame for that at the feet of journalists who have, for whatever reason, not done their jobs well. I've already addressed those concerns in previous articles, so suffice it to say that I hope you want to be one of the 'good guys' and help turn things around.

Covering the Courts

I'd like to spend a few more moments with you about 'The Process' by using news coverage of the 'judicial system' as an example.

I covered **crime and courts** as a journalist for many years. After becoming a news manager, I guided younger journalists as they learned about court coverage and how to investigate the legal 'processes' involved.

My experience is with courts in the United States. I mention that because court systems vary from one country to another and yours may be a different than ours. If you cover courts outside of the U.S., you will want to know your court system well as you cover various legal issues.

I will use the ‘criminal court process’ of former U.S. President Donald Trump’s trial as an example throughout this article since it is both a high profile case and involves many aspects of the U.S. criminal court system.

Just a reminder that as an ‘old-school journalist’ I have always been a political independent — a requirement for journalists at the time. My views about investigative documents concerning the Trump trial are strictly based on the rules of ‘real journalism,’ not politics or personal biases.

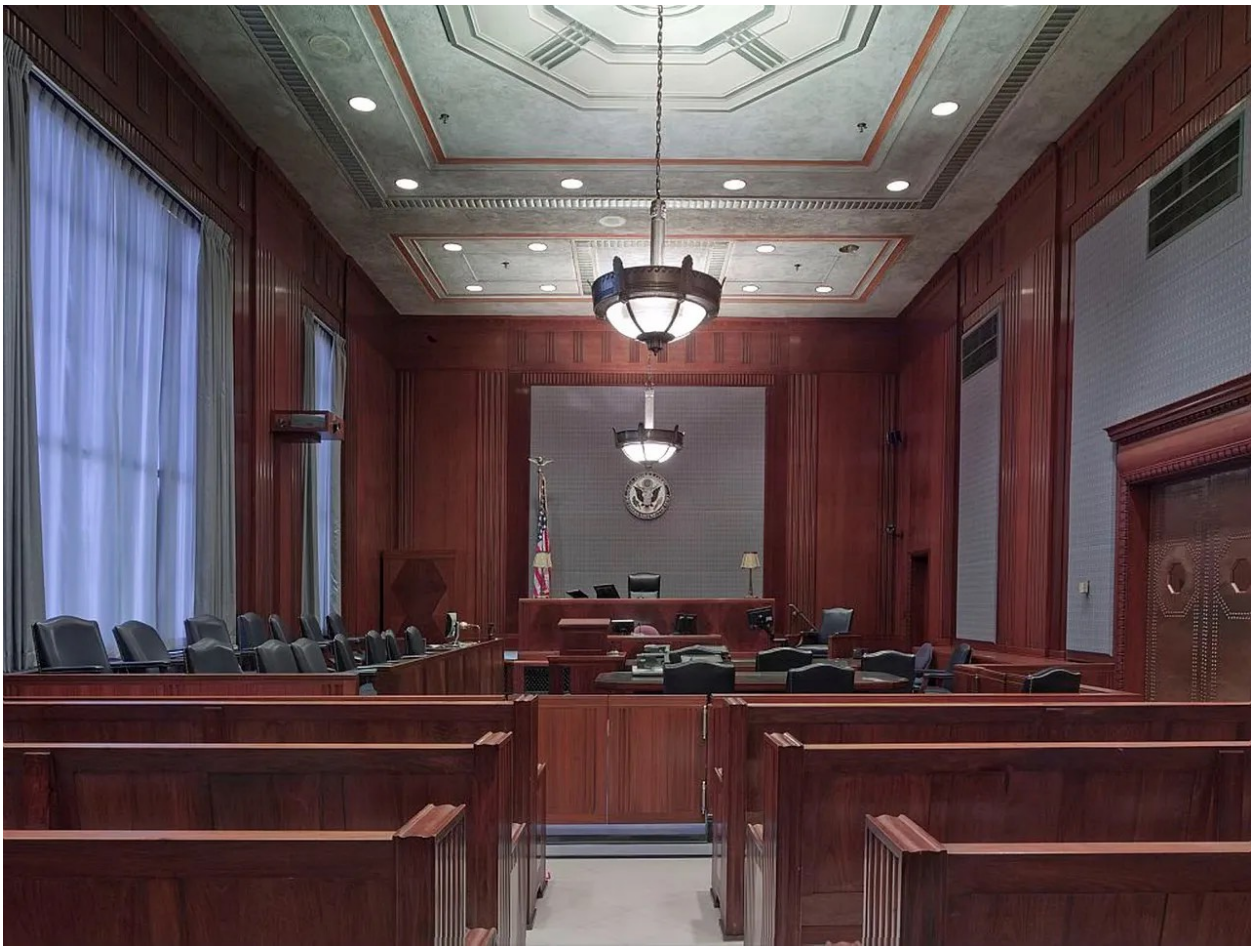
Covering Courts in the United States

Knowing how to cover the 'court system' begins with understanding the **process**. Court proceedings have been going on in the world for thousands of years. Each nation developed its own process for dealing with civil and criminal issues.

Journalists need to understand what type of court they're walking into and what type of case they will be covering. Is it a state court or a federal court? Is it a court of general jurisdiction or limited jurisdiction? Is it a probate court? Family court? Juvenile court? Traffic court? Bankruptcy court? Tax court? FISA Court? Judiciary court? Is it a trial court, appellate court, or supreme court? If it's an appellate court, is it a civil or criminal appeal that you're covering?

Courts are more than ‘buildings’ where trials are held. Courts are made up of ‘people’ who work within the ‘justice system.’ Depending on the type of court, those people can include plaintiffs, defendants, prosecuting attorneys, defense attorneys, prosecution witnesses, defense witnesses, jurors, judges, administrators, court clerks, law clerks, bailiffs (often deputy sheriffs), probations officers, investigators for prosecution and defense, among others.

Learning the Process



When I was a young journalist I spent as much time as I could getting to know the ‘people’ who worked in the state or federal ‘judicial system’ where I covered news. I found most of the people to be professional, friendly, and helpful. I spent many hours with police officers, sheriff’s deputies, law enforcement investigators, private investigators, judges,

district attorneys, defense attorneys, clerks, bailiffs, etc., learning what they did and how they did it. I also wanted to know how their positions impacted the justice system. It was important that I could recognize when the system worked as it should and when it didn't. The time I spent with them was a good investment and very helpful to me as a young journalist who later became an investigative reporter.

A criminal court proceeding usually begins based on the complaint of a crime (or arrest by a law enforcement officer of someone caught in the act of committing a crime). That often leads to a grand jury deliberation which can lead to a 'true bill' (yes on indicting) or a 'no bill' (no on indicting). If a grand jury returns a 'true bill' of indictment, the defendant is charged with the crime listed in the indictment. Unless there is a plea agreement, that leads to a trial heard by a petit (trial) jury.

The indictment in Trump's case concerned falsifying business records, which is usually a misdemeanor in New York State. However, the district attorney (Alvin Bragg) convinced a grand jury to increase the charges from a misdemeanor to a felony based on the idea that Trump 'intended' to commit another crime or 'aid or conceal the commission of a crime.' The number of charges, 34, referred to 34 'documents' that the grand jury believed contained a 'critical false statement' — one felony charge for each document. The number is significant because each of the 34 felony charges carries a maximum sentence of four years in prison, plus a $5,000 fine. Based on Trump being convicted on all 34 charges, he faces a maximum sentence of 136 years in prison and a maximum fine of $170,000. That is based on New York's 'sentencing guidelines,' which are available for the public to read. The trial judge (Juan Merchan) set July 11th as the sentencing date for Trump.

Knowing how the grand jury system works and the difference between a misdemeanor and a felony indictment is important for a journalist who covers courts. Journalists should always ask for copies of indictments once they are made public, along with any other legal documents available to the public. Those may include pretrial motions filed by the defense, written briefs, evidence prosecutors plan to use at trial, plea agreements, etc.

If the jury finds the defendant guilty, the defendant has a right to appeal the guilty verdict. Some guilty verdicts are overturned — some are not. Trump plans to appeal the jury's verdict. Appeals have been known to take months or years to work their way through the appeals process, though it's possible Trump's appeal could be fast-tracked because of the upcoming election or other reason.

Understanding the Charges

I can't remember a time I covered a criminal trial when I didn't understand the charge(s) prosecutors were bringing against a defendant (e.g. murder, rape, assault, theft of property, etc). So, it was interesting to watch the Trump indictment, charges, and trial unfold during the past several months. Many legal experts from both pro and anti-Trump media said publicly that they didn't understand the 'underlying' crime that turned the misdemeanor charges into felony charges. DA Alvin Bragg said the law did not require him to specify the 'other' crime or crimes in the indictment, but he did share a few possibilities. Many of the experts on both sides stated that the prosecution's case was weak, though a jury did eventually find in favor of the prosecution.

I wasn't in the courtroom for the trial, but I remember years of watching jurors as they heard opening arguments from prosecution and defense attorneys, witness testimony, closing arguments from attorneys, a judge's 'charge' to the jury, and various requests (known as 'asks') to the judge during jury deliberations. I could often tell how a jury would rule based on how they reacted to certain testimony or arguments during a trial and the questions they asked during deliberations. I served on a couple of criminal juries through the years (even though I was a journalist), so I also have first-hand experience from the inside of a working jury as to why juries send certain 'asks' to judges.

This time I had to depend on what media observers reported about Trump trial proceedings, jury reactions, etc., because I wasn't in the courtroom — plus television cameras were not allowed. Even though the media and their legal experts often remarked about the weakness of the prosecution's case, I told a close family member that the jury would find the former president guilty on all 34 counts. How did I know that would happen? Because of years of sitting in courtrooms and

learning how things work. The more you understand ‘process,’ the better you will understand ‘outcome.’

Journalism is more than a profession. It is also a ‘craft.’ You begin as an ‘apprentice,’ work your way toward ‘journey craftsperson,’ and eventually arrive later in your career as a ‘master craftsperson’ if you work hard and apply yourself. It’s simply a matter of putting in your time, learning the process, doing the job to the best of your ability, learning from your mistakes and successes, and being open to feedback and criticism from your news managers, court personnel, and your audience.

Investigating the Process

I read, heard, and saw a lot of coverage of the Trump trial, along with commentary from legal experts. Unfortunately, I saw very little ‘investigative journalism’ in news coverage leading up to and during the trial. As I’ve written previously, I read and watch as much news as I can every day. I may have missed some good investigative work done in the days leading up to and during coverage of the trial, but I didn’t happen to see or read it. What I saw was basic journalism with a lot of biased commentary from program hosts and their ‘expert panels.’

What I mean by ‘basic journalism’ is what you’d expect a journalist to do in covering any story. They find and report information. They cover events. They see something and say something. What I didn’t see is what I call ‘real investigative’ journalism.

Investigative journalism is not reporting information that the pubic can see for themselves or could find on their own if they had the time to go do their own research. Investigative journalism is finding and revealing information that powerful people are hiding and don't want found or revealed.

- Investigative reporters know how to find documents that are often available to the public but difficult to find — unless you know where to look. Because they know how various systems work, they are able to identify 'revealing' documents that others would overlook.

- Investigative reporters know how to find information through 'confidential sources' who want hidden information revealed, but will only give that information to journalists they trust to use the information properly and protect their identity. 'Triangulation' (having at least three confidential sources independent of each other who confirmed the same information) was necessary to report that information when I was an investigative journalist. It's still a good idea today.

- Investigative reporters have to be ready to go to jail to protect their confidential sources. I've been on the witness stand when a judge told me to reveal my confidential source or go to jail, and so I know what that means personally. I didn't reveal the source, but my attorney made a persuasive argument that the plaintiff in the case could get the information through other means. The judge decided not to send me to jail.

- Investigative reporters 'show' the documents they found to help their audience know that they have 'documented evidence' to support their story. They hold up the documents to the camera and/or highlight quotes or bullet points in graphics so the audience understands what they discovered and the impact it has on the story.

- Investigative reporters use 'confidential source' information properly (honestly) to bolster the truthfulness of their story while protecting source identification.

I saw little to none of that in coverage of the Trump charges and ensuing trial. Where were the investigative journalists who wanted to find documents and information that powerful people on both sides may have hidden? Why weren't investigative journalists getting more information from confidential sources that would help reveal the truth for both sides?

The indictment, arrest, trial, and guilty verdict of a former president of the United States is one of the biggest stories I've seen in my lifetime. I'm disappointed in the journalistic coverage I saw from both sides and can only hope it will improve in the future. There is still time to 'dig' through documents and find confidential sources to give citizens of this country the information they deserve to know.

Remember, this has nothing to do with your personal politics. Hopefully, you are an independent journalist simply looking for the truth, ready to report it no matter what the cost may be to you or your career. As someone who did this for a living for decades, I know there are a lot of things being hidden from the American public — not only in the court system, but in so many other areas of public life. If you are an

investigative journalist, I hope you will accept the challenge. If you are a journalist with a desire to become an ‘investigative’ reporter, I hope you will ‘dig in’ and get started.

The System

I chose this photo because it reminds me of the days of looking through scores of ‘documents’ that were part of my investigations as a journalist.

In the first part of this series I shared about three areas —

1. Documenting Your Investigation
2. Paper Trails
3. The Process

The next part is the ‘system’ you choose to use for your investigation. Most all of the documents I used for investigations in the 1960’s and 70’s were paper documents. I used also used photos, microfilm and microfiche, film, and video. That meant developing a ‘system’ of keeping documents in files, notebooks, filing cabinets, boxes, desk drawers, etc., for easier reference during an investigation.

Digital documentation in government and business expanded in the 80's and 90's, which meant investigative journalists began using more digital storage. I was (and still am) 'old school' enough to print important documents, even though I also store them on computers, thumb drives ('flash drives'), external servers, and 'in the cloud.' I also like to use 'screen shots' to back up some of my documentation or keep it on my desktop for quick reference. Keeping a log of URL locations for some documents is also helpful in an ongoing investigation.

Based on how quickly things are changing with computation speed, the Internet, and AI (artificial intelligence), journalists should have even more ways to find and store documents in the future. The key is having a 'system' that works for you — whatever technology you prefer to use.

Indexing

Part of your ‘system’ should include an index of the documents you find. Indexing is simply a method of keeping track of what documents you have and arranging them in a categorical manner that makes retrieval quick and convenient. We used an ‘index card’ system in the 60s and 70s —

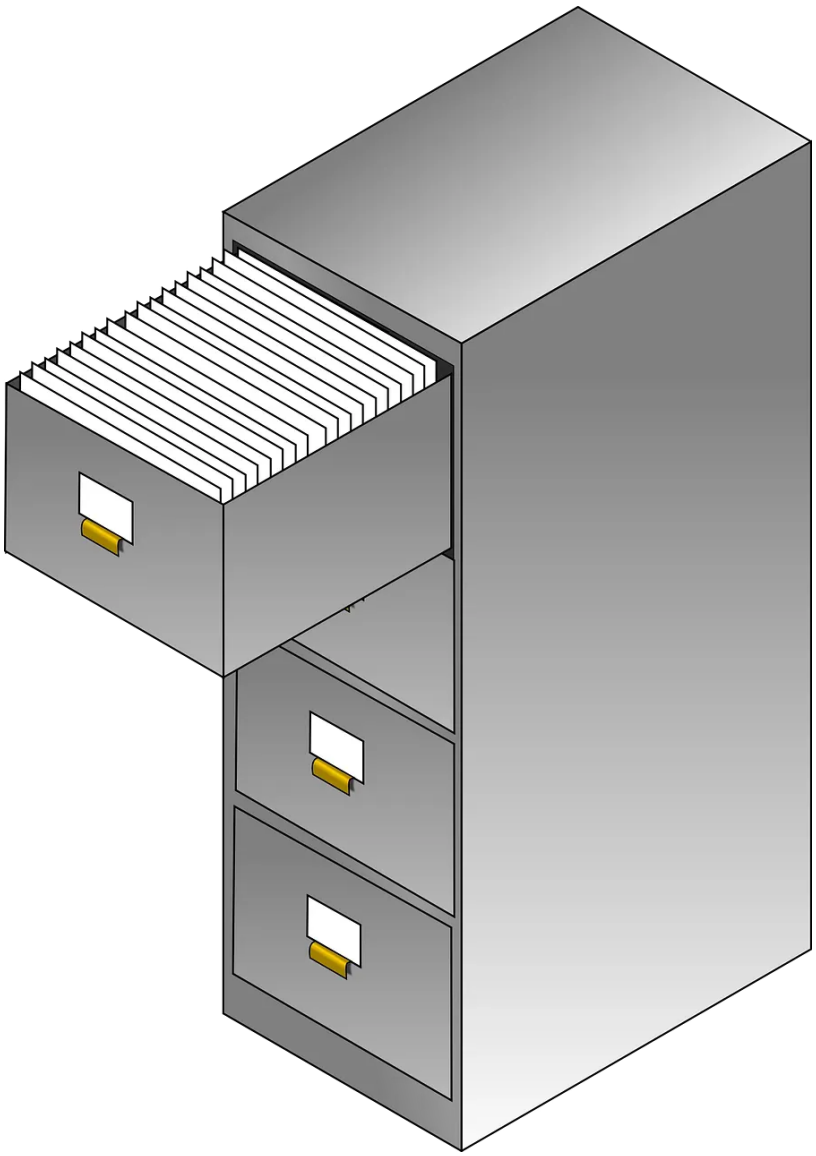
Index Cards and Holder

That's a far cry from what journalists have now in the digital age, but it did the job for us back then. Journalists now have many options for 'digital index cards' that link from your computer or phone to documents in your 'system' (e.g. digital notebooks, project file organizers, AI productivity tools, online file sharing when working with a team, etc.) You can organize your computer document files based in numerous ways — including project-based, file type-based, and date-based. You can also cross-reference documents to any of those bases for faster retrieval. You can include a listing in your digital filing system about any physical documents you have in your possession.

People and Money

One of the primary ways to set up a ‘system’ for investigative documentation is based on two things — people and money. It goes along with the old saying — Follow the People, Follow the Money. If your investigation contains medical or scientific data, you can also Follow the Science.

You can think of your digital filing system in a similar way to your physical filing system. The top drawer could be for ‘People’ documents, second drawer for ‘Money’ documents, third drawer for audio and video recordings, etc.



Another way to do each ‘drawer’ is to base it on the type of investigation you’re doing. One drawer could be for government investigations — another for business-related investigations — another for individual-based investigations.

Whatever you do, get organized! Depending on what kind of time you have for investigative reporting, you may be working on multiple 'projects' at the same time. The more investigative projects you have, the more you'll need a good 'document system' to keep everything orderly and easily available.

People Documents

Documents that fit in the 'follow the people' category can include —

- newspaper and magazine clippings
- personal records (e.g. birth certificates, education records, marriage licenses, family records, divorce decrees, other public legal documents, car ownership or lease records, driving records, public phone records, criminal records, public tax records, social media records, etc)
- business records (e.g. corporation documents, assumed business names, business licenses and applications, bid records, purchase documents, sales records, product records, equipment ownership and lease agreement

records, business complaint records, affirmative-action compliance records, audit records, social media records, etc.)

- If the person is an elected official, you also have access to legislative proposal records, voting records, social media records, etc.

Money Documents

Documents that fit in the 'follow the money' category can include —

- budget records
- purchase and sales receipts
- bank credit card records for public officials
- political campaign contribution records
- personal or corporate financial records
- planning and zoning records
- tax records
- mortgage records
- other property records
- balance sheets

- audit records
- credit ratings

Science-Based Investigations

If you do a science-based investigation, you can 'Follow the Science.' That will often include documentation about 'people' (scientists) and 'money' (e.g. grants, etc). Scientific investigations often become part of other investigations, so it's good to develop some good contacts in the scientific community who can help you with documentation. Plus, there's lots of great information available at medical and science libraries, online search sites, etc.

Important Reminder

It's important to remember the legal differences about 'who' or 'what' you are investigating. Is the person a 'private figure,' 'public figure,' or 'public official?' Is the business 'private' or 'public?' Is the organization 'private' or 'public?' Is it 'for-profit' or 'non-profit?' That information can guide you in how to deal with finding and using documents. If in doubt, check with attorneys familiar with Libel and First Amendment laws. Your station or newspaper may have those types of attorneys on retainer. Independent journalists should also check with lawyers who can help them through investigations.

Digital Storage

Photo by Marvin Meyer on Unsplash

Storage ‘Space’

Journalists have so many ‘digital storage’ devices available to them today. You can ‘scan’ paper documents, take photos of documents, save online documents digitally, etc. Depending on how many investigations you undertake and the number of documents per investigation, you may find that storing the documents on CDs, DVDs, thumb drives, hard drives, servers, and/or ‘in the cloud’ to be your best options.

Remember that you want your ‘document storage system’ to be more than just ‘storage.’ You also want ‘availability,’ meaning you want to be able to retrieve and use your documentation quickly and easily.

I found this calculation from a business website -

> Knowing how much physical space your documents require can help calculate roughly how much digital space you’ll need. In the case of a small business with four filing cabinets brimming full with paper (about 40,000 pages) you’ll need just under 1.5 GB of

> storage—roughly two CDs, or you could have everything added to a DVD (worth about 7 CDs) and leave plenty of room for growth. ILM Corp

Most investigations I've done through the years contained less than a thousand pages, and so you could store documents from several investigations on a thumb drive. However, if your investigation also includes audio and video files you will need more storage space. That's where multiple thumb drives and external hard drives are helpful. Cloud storage is also relatively inexpensive, though privacy issues may be a concern for you with sensitive investigations.

Here's another good reason for digitizing your investigative documents -

> There are many well-known benefits of digitization, like increased efficiency, easier collaboration, and enhanced accessibility. However, there is one benefit of digitizing documents that is often overlooked — the ability to free up physical space.

> By converting physical documents into digital files, you can reduce the need for physical storage space, which can save you money on storage costs and free up valuable office space for other uses. Digital documents can be particularly beneficial for businesses that deal with large volumes of paperwork. Adobe

Storage 'Affordability'

Affordability is another issue to consider. Fortunately, digital storage costs have decreased greatly during the last 20 years. I started storing documents for investigations in the 1980s but had access to station computer equipment. Storage was pretty expensive back then, and so I had a limit on how much storage. The costs have dropped significantly through the years. Now even independent journalists can afford to purchase a good computer, some thumb drives, and at least one external hard drive. You can also store some of your documents on your mobile phone. However, keep in mind that anything that connects to the Internet can be

hacked, and so you may want to store ‘sensitive’ investigative documents on a ‘secure’ device.

One of the nice aspects of digital storage prices being lower is that you can afford to back up investigate documents on multiple devices without ‘breaking the bank.’ Your news department should have a budget that will cover those costs. If you’re an independent journalist, then purchase as much as you can when you can. You can build your ‘storage library’ over time or on an ‘as-needed’ basis.

I started by purchasing a 2 GB thumb drive. I know that doesn’t sound like much now, but I was amazed at how many documents I could store on 2 GB. As technology advanced I purchased a 4 GB thumb drive, then an 8 GB, then a 16 GB. I soon learned that if I wanted to store images and videos, I would have to increase the storage size. So, I went to 32 GB, 64 GB, 128 GB, and 256 GB. I was eventually able to purchase a 1 TB external hard drive, then a 2 TB, followed by a 3 TB, and now I have a 4 TB. The cost kept dropping and the storage space continued increasing.

Storage ‘Findability’

As much as I enjoyed being able to store and back up all of my investigative documents, and audio and video files, the next challenge quickly became ‘finding’ them. Fortunately, digital files are easy to name and rename — similar to a physical filing system where you stick a new label on top of the old file folder label.

I found that using the ‘New Folder’ feature available on computers helped me categorize documents and materials in ways that worked best for me. Each ‘folder’ has its own ‘New Folder’ section that allows you to organize documents and files for easy ‘findability.’

Storage Software

Depending on whether you will be running your investigation solo or with a team, you may find digital storage software helpful. Here are some that work pretty well for different purposes. I recommend you take any that interest you for a ‘trial’ run (if available). That will let know whether the

investment of time and money will be worth it to your investigations —

Microsoft 365 SharePoint

HighTail

Google Workspace

Zoho Docs

Adobe Document Cloud

OnlyOffice

DocuWare

RevverDocs

Ademero Content Central

Fluix

Folderit

Egnyte Cloud

Always keep ‘privacy’ in mind when working with online storage for sensitive investigative documents. Keeping sensitive documents away from ‘hackers’ can save you the embarrassment of not finding what you need to ‘prove’ your investigative findings. Think of it like keeping your most important documents under ‘lock and key.’

Understanding What You Find

Great job! You've gathered scores or even hundreds of documents as part of your investigation. You've organized them so you can find what you need easily. You've made duplicates of all of the documents and other investigative resources and placed them in separate locations.

Question — do you understand what you found? That's where some of us may need help in writing and presenting our investigative story or series to the audience. 'Finding' the documents is just the beginning. Journalists need to understand how those documents work together to 'support' their investigative findings.

Finding Experts

Most journalists are not experts in every area of government or business they will investigate during their career. That's where having access to experts in various fields will be invaluable to you.

You can find 'experts' in almost any field of government, business, and academia. You want experts you can 'trust' to give you honest answers to your questions. Some may be willing to be identified. Some may not want to be identified but be willing to give you answers to your questions 'on background.'

Some colleges, universities, governments, and businesses have 'expert' lists for journalists to use. I recommend you take a copy of the lists, but check into each 'expert' to make sure they are trustworthy for your investigation. If the expert is an 'official representative' of their institution or organization, be aware that they may be 'protective' in

answering your questions. You may still find them helpful in some ways, but investigations sometimes lead to negative findings for governments and businesses.

That means you'll also need some experts who are 'independent' of your investigative target, 'inside' sources who provide information to you, or people willing to become 'whistleblowers.' While there are laws to protect whistleblowers from employer retaliation, that's a tough decision for many people because they've seen how other whistleblowers have been targeted by their employer after coming forward.

I found that 'inside' sources were among the best 'experts' for my investigations. They know what's going on in various departments and agencies. They have the 'expertise' to understand the documents they give you and explain them to you.

Defining an ‘Expert’

An ‘expert’ is defined as —

> having, involving, or displaying special skill or knowledge derived from training or experience — Merriam-Webster Dictionary

> a person with a high level of knowledge or skill relating to a particular subject or activity — Cambridge Dictionary

> An expert is a person who is very skilled at doing something or who knows a lot about a particular subject — Collins Dictionary

You may be surprised at how many people in your community are ‘experts’ in something. They may or may not have a college degree. They may or may not work for the government, business, industry, or academia. The key to finding people with areas of expertise is — what they know and how well they know it.

Keep that in mind as you look for ‘experts’ to help with investigations. What people ‘know’ and how they may be able to help you find documents and other evidence to support your investigation may surprise you.

Some of the people who helped me most through the years would not have thought of themselves as ‘expert’ about anything. One important key was what they knew and how well they knew it. The other key was whether they were trustworthy — could I trust them to supply me with documents and other information that would support my investigation and help lead me to finding the ‘truth.’

Building an ‘Experts’ File

I built a ‘Rolodex™’ file of experts in a wide variety of fields in the 1960s and 70s. I had a card for each expert that included contact information and their areas of expertise. I wrote on the back of the card how they had helped me with previous investigations as a reminder of what they could do. I also placed each card in a category that would help me visually find them, depending on what type of investigation I was doing.

Once I had access to a computer in the 1980s, I transferred the information to computer folders. That made finding experts faster because of the ‘search’ tools in computers. I kept the same general category system, but those became ‘folders’ inside the computer rather than a Rolodex subject card. I kept the Rolodex file as a ‘backup’ in case my computer files were accidentally deleted or corrupted. I still believe in having ‘paper’ backups to most important information.

Here are some categories to consider as investigative folders (similar to the old ‘beat’ system in journalism) —

- Government
- Crime
- Courts
- Law Enforcement
- Education
- For-Profit Business
- Labor Organizations
- Not-For-Profit Business
- Non-Profit Organizations
- Science
- Healthcare
- Weather
- Sports

As your list of experts grows you may find it helpful to build sub-category folders inside each ‘folder.’ For example — your ‘Government’ folder could have sub-folders that include experts in a variety of local, state, and federal departments and agencies. Those might include elected and unelected officials and employees who are available to help you.

Your ‘For-Profit Business’ folder might include sub-folders for small businesses, medium-sized businesses, large businesses, and industrial giants. You can even build sub-sub-categories off each sub-category if that helps you find the right expert more quickly.

How you build and organize your ‘experts’ files is whatever works best for you. Working in the computer (information) age makes it easier to change and expand your files as your investigations grow in size and scope.

Journalists, especially investigative journalists, need to beware of two types of ‘holes’ they could easily step into during their coverage of news. One is known as the ‘Rabbit Hole.’ The other is the ‘Memory Hole.’ Interestingly, I first learned about these ‘holes’ as a child while reading fiction books.

Photo by Haley Lawrence on Unsplash

The Rabbit Hole

> “The rabbit-hole went straight on like a tunnel for some way, and then dipped suddenly down, so suddenly that Alice had not a moment to think about stopping herself before she found herself falling down a very deep well. ”
>
> ~ Alice's Adventures in Wonderland

In journalism a ‘rabbit hole’ is where someone you are interviewing or investigating attempts to quickly ‘change the direction’ of the interview or your investigation. They take a quick turn and head down a ‘rabbit hole’ that has nothing to do with your questions. Like Alice, journalists find themselves falling down a ‘very deep well.’

It’s a tactic that people in government, politics, business, and crime are very good at doing. Many of them have done it successfully with journalists before, so they’ll try it on you. Don’t let them.

Don’t let them change the subject. Stay on course in your interview or investigation. If they persist in trying to quickly move in another direction, tell them you’ll be glad to talk about other topics after they answer your questions. If they won’t agree to do that, let them know that’s what you will tell your audience — that they wouldn’t answer your questions and tried to run you down a ‘rabbit hole’ rather than cooperate with your investigation. Knowing that sometimes gets them to open up and answer your questions. Sometimes that doesn’t work. You then need to do what you told them you would do. Tell your audience about their refusal to answer your questions and cooperate with your investigation.

Is it easy to face the threats that powerful people will make against you? No, but it’s what investigative journalists need to be prepared to do. Remember — you represent your audience — not yourself and certainly not the rich and powerful. You have a First Amendment right to ask questions and investigate government officials, whether elected or appointed.

Don’t be like Alice —

“Down, down, down. There was nothing else to do.”

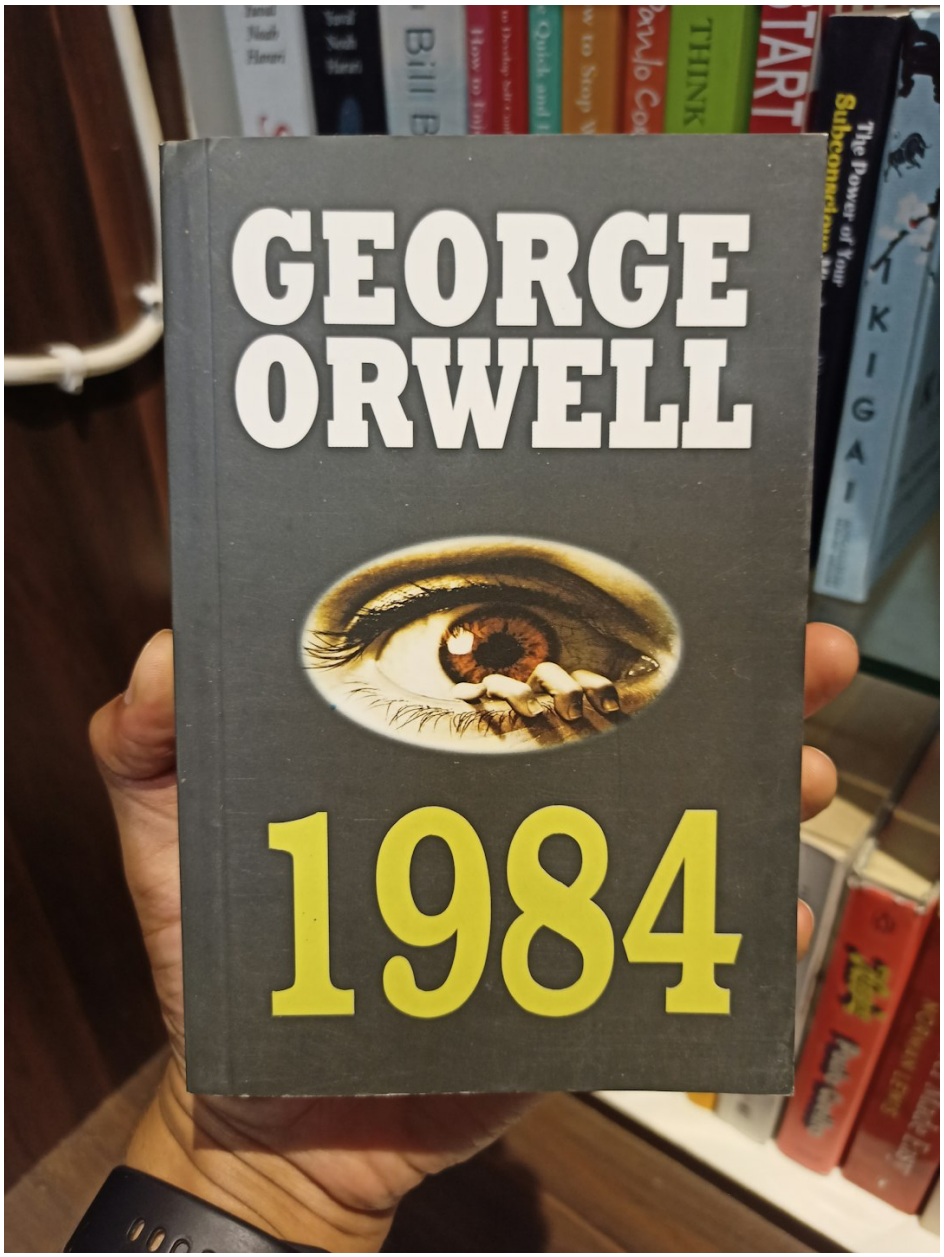


Photo by Abdul Ahad Sheikh on Unsplash

The Memory Hole

I first read about the ‘Memory Hole’ in George Orwell’s classic novel, 1984 —

> With the deep, unconscious sigh which not even the nearness of the telescreen could prevent him from uttering when his day's work started, Winston pulled the speakwrite towards him, blew the dust from its mouthpiece, and put on his spectacles. Then he unrolled and clipped together four small cylinders of paper which had already flopped out of the pneumatic tube on the right-hand side of his desk.
>
> In the walls of the cubicle there were three orifices. To the right of the speakwrite, a small pneumatic tube for written messages, to the left, a larger one for newspapers; and in the side wall, within easy reach of Winston's arm, a large oblong slit protected by a wire grating. This last was for the disposal of waste paper. Similar slits existed in thousands or tens of thousands throughout the building, not only in every room but at

short intervals in every corridor. For some reason they were nicknamed memory holes. When one knew that any document was due for destruction, or even when one saw a scrap of waste paper lying about, it was an automatic action to lift the flap of the nearest memory hole and drop it in, whereupon it would be whirled away on a current of warm air to the enormous furnaces which were hidden somewhere in the recesses of the building.

As soon as Winston had dealt with each of the messages, he clipped his speakwritten corrections to the appropriate copy of The Times and pushed them into the pneumatic tube. Then, with a movement which was as nearly as possible unconscious, he crumpled up the original message and any notes that he himself had made, and dropped them into the memory hole to be devoured by the flames. George Orwell, 1984, Part 1, Chapter 4

Even though George Orwell wrote 1984 in 1948, his insight into the potential of where governments would go in their desire to ‘bury the truth’ in memory holes was prophetic. It’s going on right now in our country (and many others) in governments and businesses. Powerful people are using their power and influence to ‘change’ what people remember about historical events (what people said and did in the past). It’s a way of manipulating people’s memories for the purpose of directing an outcome that serves the purposes of the powerful.

I first read Orwell’s book as a child, but have read it many times since and highly recommend it to journalists. Governments will do everything in their power to keep you from finding ‘the truth.’ They will lie about it, hide it, bury it, destroy it, deny it, and ‘memory-hole’ it. Orwell, who also wrote the classic Animal Farm a few years earlier, had an uncanny insight into what was coming to America. Unfortunately, many journalists in the news media have ‘stepped’ into it, thus misleading their audience with ‘tainted' truth.’

The problem with Memory Holing today is that we have copies of almost everything. You can thank the Internet for that — along with audio and video recordings, digital devices, and social media. Most anything that's been written, said, or done in the last 50+ years exists somewhere on the Internet or on some device that 'saves' information for later use. Anyone with a smart phone, tablet, or computer can read, see, or hear what someone did or said months or years ago.

It's sad to watch or read journalists who say something didn't happen when the proof that it did happen is available to anyone with digital access. Why would an honest journalist do that? They wouldn't.

Any journalist who would deny that something happened or that someone said something they really said is not an honest journalist. That actually means they are no longer a 'real journalist.' Real journalists gather, confirm, and report facts — not lies. These 'false' journalists have become willing stooges for governments, businesses, and media corporations.

Journalists Stepping Into Holes

Unfortunately, many journalists today are stepping into ‘Rabbit’ and ‘Memory’ holes. Non-journalists, the audience, can see that many reporters, anchors, and show hosts are dishonest and doing a great disservice to the noble profession of journalism.

I take no pleasure in reporting this despicable state of journalism today. Far too many journalists have agreed to lie and gaslight their audience. They are destroying what's left of what used to be an important part of 'democracy' — a free and honest press. Whatever their reasons, they have no place in 'Real Journalism.'

A Warning About Artificial Intelligence

Artificial Intelligence (AI) can be used for good or evil. My warning to journalists in this newsletter will focus on the evil potential of AI.

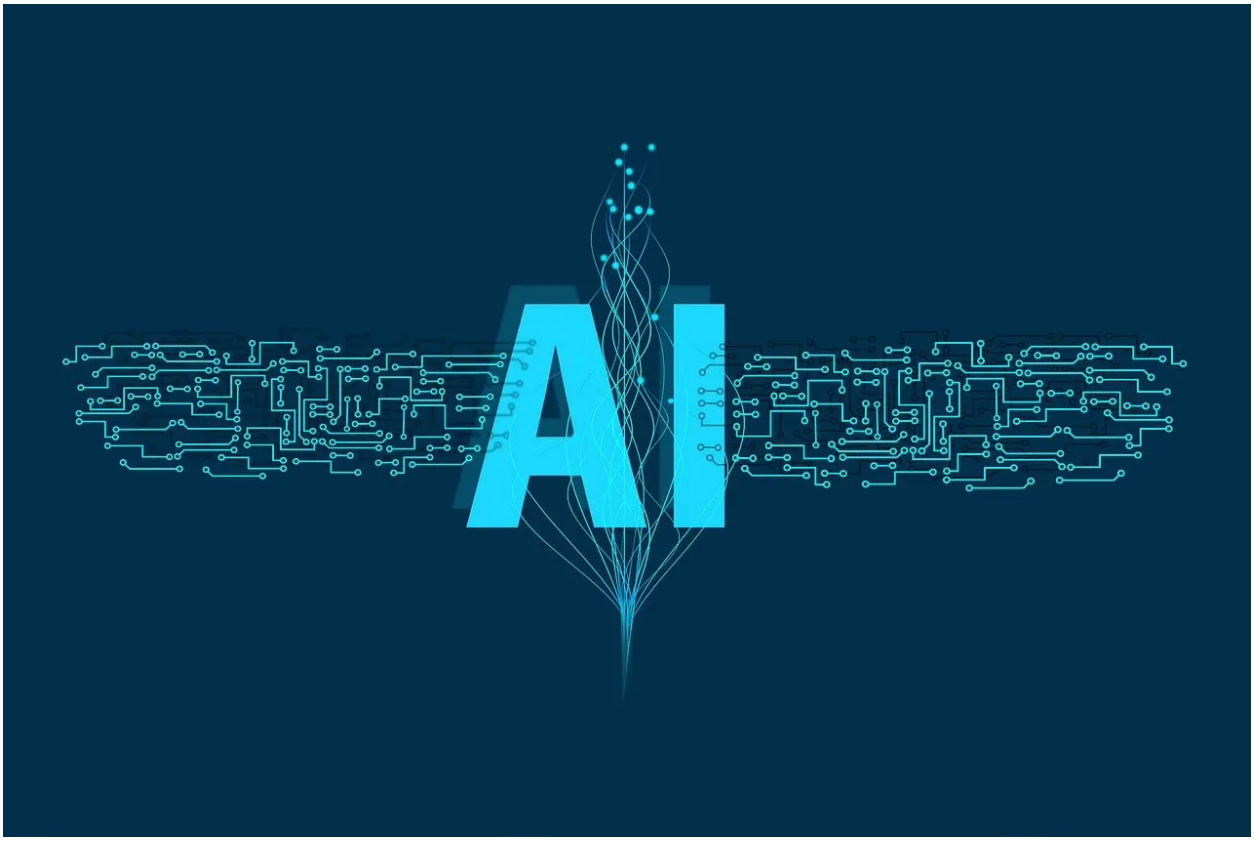
Columbia Journalism Review wrote an extensive report earlier this year titled Artificial Intelligence in the News: How AI Retools, Rationalizes, and Reshapes Journalism and the Public Arena. What many news consumers may not know is that journalists and the companies they work for are already using AI to 'produce' news product.

According to CJR's report the "primary motivations for adopting AI" cited can be grouped into four categories —

1. Technological developments
2. Market pressures
3. Industry dynamics
4. Uncertainty, hype, and hope

The lengthy report is worth the time to read, especially for journalists who wonder how AI might impact their work (even their employment) in the months and years to come. Here's an interesting quote from the report —

What emerges here is a complex picture. The answer to the question: “Does AI fundamentally make a difference to the production and distribution of news?” must be both yes and no. The available evidence shows that AI has been — or can be — employed in a variety of settings to improve (or partially replace) a variety of tasks. Ultimately, though, I submit that what we are witnessing is to a degree a further rationalization of news work through AI, as work processes that traditionally relied on human intuition are increasingly becoming suffused with or replaced by a technology that is imbued with ideas of rationality, efficiency, and speed — and which does indeed provide greater efficiency and effectiveness in some contexts. CJR



As I've read through 'mountains' of online material about AI in journalism, most support the idea of using AI to increase content and speed to 'serve' the growing appetite of the audience. The fact that so many journalism schools and companies want to adopt the latest 'AI technologies' tells me that this cannot be stopped or even slowed. Journalists are going to have to learn how to use AI.

The concern I have is that AI can be used to make ‘memory holing’ more difficult for journalists who care about finding, confirming, and reporting truth. I wrote something in the last newsletter that needs some additional information because of the technological abilities of AI —

> The problem with Memory Holing today is that we have copies of almost everything. You can thank the Internet for that — along with audio and video recordings, digital devices, and social media. Most anything that’s been written, said, or done in the last 50+ years exists somewhere on the Internet or on some device that ‘saves’ information for later use. Anyone with a smart phone, tablet, or computer can see and/or hear what someone did or said months or years ago.
>
> It’s sad to watch or read journalists who say something didn’t happen when the proof that it did

happen is available to anyone with digital access. Why would an honest journalist do that? They wouldn't.

Any journalist who would deny that something happened or that someone said something they really said is not an honest journalist. That actually means they are no longer a 'real journalist.' Real journalists gather, confirm, and report facts — not lies. These 'false' journalists have become willing stooges for governments and media corporations. Real Journalism Newsletter

While I stand by what I wrote, I must share a caveat with you. The future abilities of AI programmers could make the identification of 'memory holes' difficult, if almost impossible to identify.

Remember the job that Winston Smith had in the book 1984 (George Orwell's classic)? Winston worked for the 'Ministry of Truth' in the 'Records Department. It was his job to change the truth (rewrite historical records) to match what the ruling totalitarian 'Party' wanted people to believe. The Party's view of reality was constantly changing, so it kept Winston pretty busy. He rewrote historical documents (much of it written by journalists), then dropped the original writings into the 'memory hole' to be destroyed (burned).

Imagine if Winston worked for the 'Ministry of Truth' in 2024 and had access to the latest AI technology? What would he be able to do with that? What kind of 'memory hole' would AI produce? Could AI 'rewrite history'? Could AI replicate historical audio to change what someone had said years earlier? Could AI change historical or even current video to make it look like someone said and did something they didn't actually say or do? The answer is YES. That technology already exists.

It might have seemed like no big deal when movie producers used generative AI to stitch late actor Paul Walker into a new episode of The Fast and the Furious, the hit action film franchise in which he had starred. But what about when these same techniques are used to assert that a famous person said something completely out of character (like in April 2022, when a fake video clip circulated on social media that purported to show Hillary Clinton endorsing then-Republican presidential candidate Ron DeSantis), or to frame someone for a crime they didn't commit? The possibilities are terrifying.

A growing unease has settled around evolving deepfake technologies that make it possible to create evidence of scenes that never happened. Celebrities have found themselves the unwitting stars of pornography, and politicians have turned

up in videos appearing to speak words they never really said.

Concerns about deepfakes have led to a proliferation of countermeasures. New laws aim to stop people from making and distributing them. Earlier this year, social media platforms including Facebook and Twitter banned deepfakes from their networks. And computer vision and graphics conferences teem with presentations describing methods to defend against them. IEEE Spectrum

What if Winston had a tech team at his disposal that worked every day to make all of history disappear or change by making ‘deepfake’ audios and video? What if Winston and his team also worked to be sure that all current events were ‘deepfaked?’ Impossible, you say? Don’t be so sure.

What Are AI Deepfakes?

Deepfakes use AI to generate completely new video or audio, with the end goal of portraying something that didn't actually occur in reality.

The term "deepfake" comes from the underlying technology — deep learning algorithms — which teach themselves to solve problems with large sets of data and can be used to create fake content of real people. BusinessInsider

Using artificial intelligence, deepfakes can mimic a person's voice and facial features. The technology uses an audio recording of someone's voice to make it say things that the person might never have said.

It can mimic someone's facial movements from videos of them, or even just a picture of their face.

A lot of deepfake videos or pictures can look very strange, so they can be easy to spot as imitations. However, sometimes they can look quite realistic, and the technology that people use to make them is improving constantly. BBC

The ‘Impossible’ is now ‘Possible’

I want to hone in on that last statement in the BBC report — “the technology that people use to make them is improving constantly.”

What does that mean for investigative journalists? With technology ‘improving constantly,’ journalists will have to be even more diligent in identifying the ‘real’ from the ‘fake.’ What the Ministry of Truth might have wished it had decades ago, governments, businesses, and media companies have it now. They have the technology to ‘change reality.’

Does that frighten you? Good. It should. What are the four traits of a good journalist? Being —

1. Curious
2. Skeptical
3. Accurate
4. Objective

Journalists, if you are not curious and skeptical about how governments, businesses, and media companies (possibly the one that currently employs you), you will find yourself unable to deliver accurate and objective news coverage. You will find yourself unable to conduct any investigation that would make the ‘powerful and tyrannical’ responsible for their evil actions. You MUST be skeptical about everything you read, see, and hear — until you are SURE you’ve confirmed it as truthful information (accurate). Then, be fair (objective) in HOW you present your findings to your audience,.

A Special Message to AI Developers

If you work in the field of AI development, I want to ask you to think about what you're doing. Technology can be used for good and evil. If you care about doing the 'right thing,' I hope you will choose good over evil. Look for ways that you can help journalists be the 'Free Press' that we so desperately need today. Develop technology that will counter 'deepfakes' so that truth does not disappear or become a 'new reality.'

Those of us who have given our lives to 'reporting the truth' need your help to ensure that what we report is really 'the truth.'

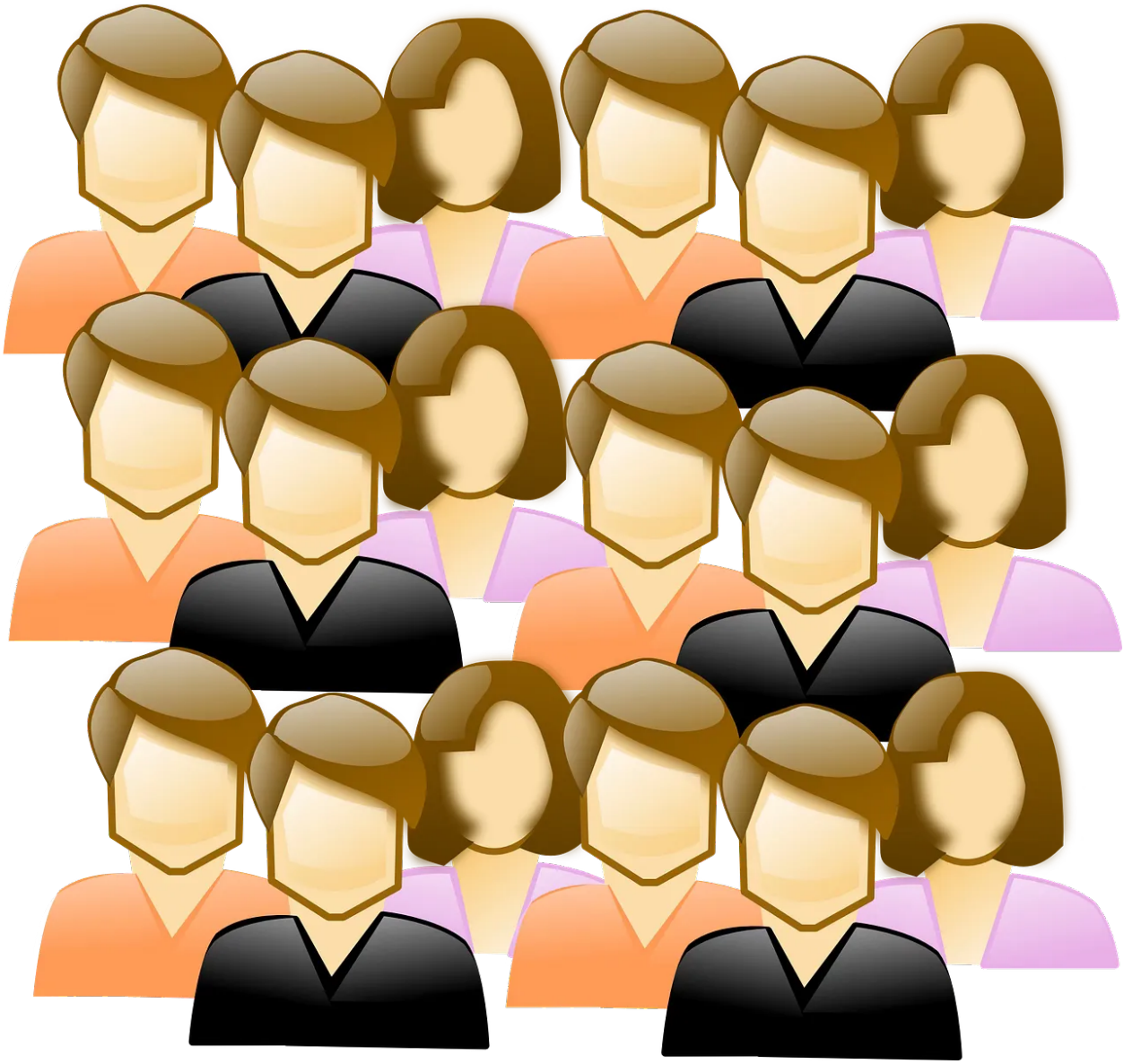
Finding documents during a news investigation has changed a little bit since I started in journalism in the mid-1960s. We now have super-fast computers, smart phones, the Internet, and Artificial Intelligence. However, what hasn't changed is the 'need' to find documents that help support our investigations into governments and businesses.

I've shared recently how to find documents that support a journalist's investigation into governments and businesses. Question — who generates those documents? Who runs governments and businesses? Who are the 'experts' journalists contact to get information for their investigations? The answer is 'people.' The more you know about the people involved in those documents, the closer you are to finding the 'truth' that you want to report.

Reporting about the people involved in the documents you find raises many challenges. People in the United States are protected by different laws. Knowing those laws will help guide a journalist in what information they can report about an individual. I'll share some of those laws in a few minutes, but first let's place people in different categories to understand how we might go about investigating them —

- Known and Unknown
- Named and Unnamed
- Public and Private
- Alive and Deceased
- Near and Far

Known and Unknown



You will find many people in documents who are known. They may or may not be named in the document, but their existence is known. The method of identification of the person may help you determine their name.

There are also people in documents who are unknown. The ‘unknown’ people are harder to spot, but you can find that someone should have been listed in a document that is part of your investigation. For example: you are investigating a crime and find a police document that includes an officer’s report that only one person (a man) was known to have been at a house when he was killed. However, you notice that the officer listed the presence of two glasses of wine on a table and that one of them had lipstick on the lip of the glass. That might indicate that a woman may have been with the man before or during the murder, but that person is ‘unknown’ as your investigation begins. Detectives may use DNA from the glass to determine the identify of the ‘unknown’ person.

Another example is that you're investigating a rash of burglaries in one area of town. Several of the victims and their neighbors told police about seeing a dark blue SUV driving slowly through the neighborhood just hours before the burglaries. The windows of the SUV were darkened, so the witnesses couldn't describe the driver or any passengers in the vehicle. They also didn't get a license plate number. The driver and possible passengers are 'unknown' people to the police at the beginning of the investigation, but may be known at a later time.

Those are just two examples of how you may come across an 'unknown' person in a document search. Make note of those 'unknowns' for your investigation. Law enforcement usually has more tools for identifying them, so stay in close touch with your police sources.

Named and Unnamed

You will find many ‘names’ in government and business documents. Keeping a record of those names, their positions in government or business, their work and home contact information, and calendar dates that fit with your investigation are important to keep in writing as well as digitally. Asking for copies of records is also a good idea. If a government agency refuses to allow you to have a document copy, you can talk with a supervisor, a highly placed source who has document access, or you can file an FOIA (Freedom of Information Act) to get copies of what you need.

Many government documents are heavily ‘redacted.’ That means some information in a document is either concealed or removed — usually to protect someone or some aspect of an investigation or ‘secret’ project. Getting those documents ‘un-redacted’ is often difficult, if not impossible. However, you can certainly report that documents important to your investigation were redacted. Your audience has a right to know that.

Even if governments or businesses won't give the names of people involved in what you're investigating, that is no reason to stop looking. Talk with sources, search for other documents that may help you connect the dots to put a name to the 'unnamed.' Do what police detectives do and 'knock on doors.' Put some 'shoe leather' into your investigation.

Public and Private

Some individuals you investigate will be ‘public figures’ or ‘public officials.’ Merriam-Webster defines a public figure as — “an individual or entity that has acquired fame or notoriety or has participated in a particular public controversy.” As for public officials, be sure to read 2 USC § 1602(15). It basically defines a public official as elected and appointed officials of a government (Federal, state, or local in the U.S.). There are some exceptions, so that’s why I recommend you read the legal code and ask your company attorneys for clarifications as they pertain to your particular investigation.

Public figures and officials usually have to prove actual malice in order to win a lawsuit against you for defamation, but lawsuits will tie you up in meetings with lawyers and courtrooms for weeks or months and cost tens of thousands of dollars. If you’re going to take on the wealthy and powerful, be sure you’re right and that your intent is pure.

Private figures (persons) are usually seen as ordinary people who have not voluntarily sought out the public spotlight. If you put a private figure into the public spotlight through your reporting, you could be liable for any damages to their reputation. Courts have generally supported a private figure's right to privacy, so they don't usually have to prove actual malice to win a defamation lawsuit against a journalist. The amounts that juries have awarded some private figures are sometimes into the hundreds of thousands or even millions of dollars. Be careful when reporting about a private person. That doesn't mean you can't talk with them about your investigation. You just have to be careful about what 'light' you put on them in your report. Also, be sure whatever you say is true. Don't put people in a 'false light' (causing reputation injury and/or embarrassment) by trying to rush a story to print or air just to 'beat the competition.' Sloppy journalism won't protect you in court.

Alive and Deceased

Some of the people who generate documents you'll use in your investigations will still be alive. That means you can usually talk with them about the documents to verify and expand on information. However, some people who generate documents will be deceased. That makes verification and expansion of information more difficult, but not impossible. You can find out who else was involved in documenting something you're investigating and, if they are alive, you can talk with them. Some investigative journalists find themselves involved with investigations that may go back many years, even decades. There are many ways to verify and expand on information in documents even if the people who did the documentation are deceased. You can visit cemeteries, look online for information about deceased, look at old documents at city hall, historical documents at libraries, etc.

Near and Far

Most local investigative journalists will find that talking with people involved in documents are near (physically close) to them. They can drive to their office or home, ask them to stop by your office, meet them for coffee, or in a private location (think covert). However, even if the person or persons are too far from you to meet in person — technologies like Zoom, Skype, FaceTime, phone calls, etc., are ways to talk with them. The more ‘secret’ or ‘sensitive’ the document(s), the more careful you will have to be in using technology to communicate with them (including email and text). Don’t let ‘distance’ hinder you from discovering truth.

Organize Your Search

Once you determine the categories of people mentioned in documents (named and unnamed), you will want to go through basic steps to organize all of the people and decide how you will approach each person. You can look back at previous newsletters where I describe the process of organizing documents. It's pretty much the same for the people involved in your investigation.

Depending on what kind of investigation you're conducting, you may have access to a large number of documents that will help you search for 'people' information. Here are some examples —

- Personal social media accounts (e.g. Facebook, X, Instagram)
- Published materials (e.g. books, articles, university dissertations and theses)
- Genealogy sites (e.g. Ancestry.com, MyHeritage.com, FindMyPast.com)
- Immigration records

- Voter registration records
- Motor vehicle registration records
- Birth records
- Marriage records
- Divorce records
- Death records
- Building permit records (including applications)
- Property ownership and tax records
- Property inspection records
- License records (including applications)
- Bankruptcy court records
- Tax court records
- Probate court records
- Election commission records
- Candidate finance records

People Who Know People

In addition to searching through records, talk with people who know the people involved in your investigation. That can include family members, neighbors, co-workers, former classmates, etc. People can often add ‘perspective’ about the people in your investigation that records can’t.

Journalists often find themselves investigating businesses — for profit and not for profit. Some are ‘small’ businesses — some are ‘large’ corporations or foundations. Investigating a business of any size can be challenging for several reasons. The potential of being sued is often higher because businesses often have powerful legal resources. Investigating a business that advertises with your station, paper, or online news platform raises other types of concern — especially from management and the sales department.

It's important to remember that businesses are made up of people — often a combination of owners, managers, and employees. Understanding the different concerns of each group will be helpful to knowing how to approach your investigation.

It's also helpful to understand the differences between a 'for profit' business and a 'not for profit' business. Though your investigative process may be similar with both, the outcomes and possible challenges may be different.

Investigating ‘For Profit’ Businesses

‘For Profit’ means just that — the businesses want to make a profit. That can be a good thing for businesses and the people who work for them. However, that can also make investigating a business more challenging because you’re dealing with how people (e.g. owners, share holders, directors, managers, employees) make money. Asking tough questions that could lead to problems for a business often means you run into a ‘wall of secrecy.’

The more you know about a particular business you’re investigating — the better. Checking out the business’ website is a good idea, but keep in mind that the business is putting out information that makes them look good. The same is true with most business news releases. Depending on the purpose of your investigation (e.g. fraud, employee complaints, breaking laws impacting the type of business, etc.), you will need to look much deeper than handouts from the business or corporation.

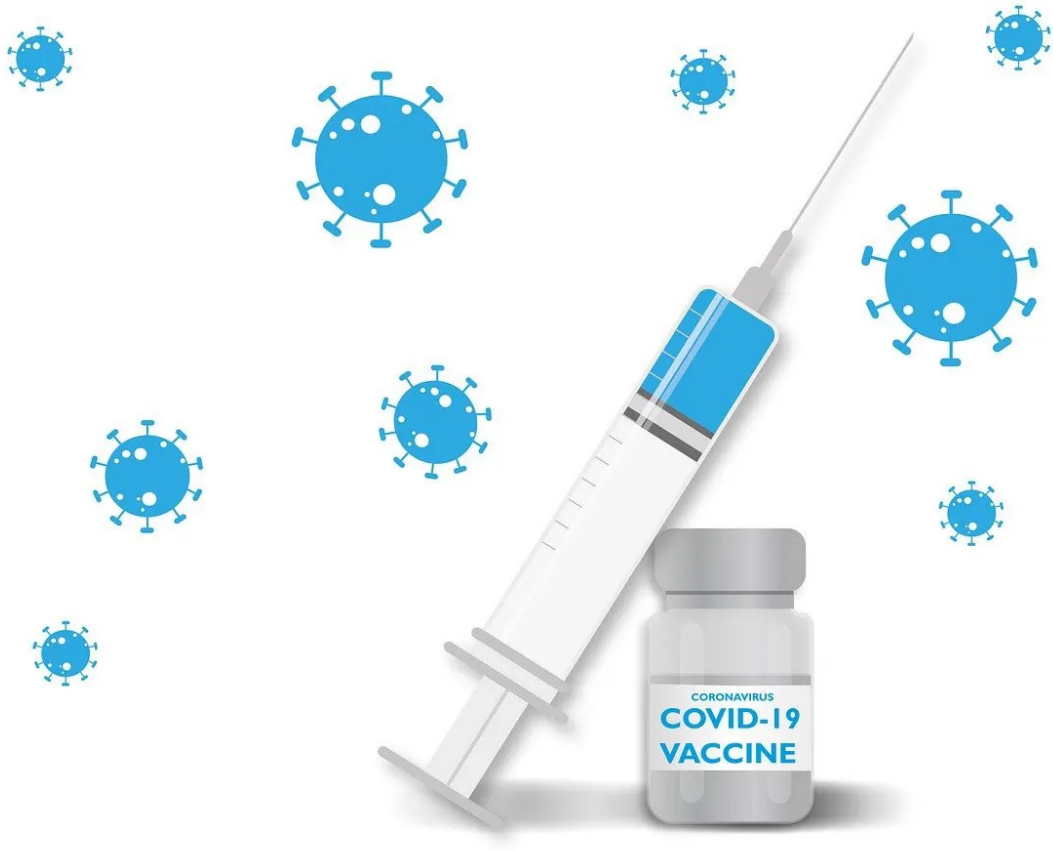
One way to do that is online. Rather than depend on the business website look for any previous investigations, complaints, fines, etc., that may be public record. You can find those by the words you use in your online search —

- Business name ‘fraud’
- Business name ‘investigation’
- Business name ‘legal problems’
- Business name ‘fines’
- Business name ‘corruption’

Those are just five examples. Use your imagination based on the type of investigation you’re conducting. Also, remember to get the names of business owners, directors, senior managers, and others who might have a connection to your investigation. Do online searches for each of the names and look for any past conduct that might shed light on the concerns you or others have about the business.

Remember - follow the people, follow the money.

Local, state, and federal government agencies regulate many businesses and corporations. Check government records to see if the business has had similar (or other) problems before.



An Example

An example I've mentioned in the past concerns the companies that manufactured vaccines for Covid 19. I wondered why I didn't see any national or local news outlets looking into some of the companies because of news coverage of fraud or corruption years earlier, so I did out of curiosity. I discovered that some of the companies working

on a vaccine had received large fines from government agencies in the past — some criminal and civil fines.

The Department of Justice announced the largest health care fraud settlement in its history (at the time) in 2009 against Pfizer (one of the primary Covid 19 vaccine developers). Pfizer agreed to pay $2.3 billion for fraudulent marketing —

> "to resolve criminal and civil liability arising from the illegal promotion of certain pharmaceutical products .. Pharmacia & Upjohn Company has agreed to plead guilty to a felony violation of the Food, Drug and Cosmetic Act for misbranding Bextra with the intent to defraud or mislead. Bextra is an anti-inflammatory drug that Pfizer pulled from the market in 2005 .. In addition, Pfizer has agreed to pay $1 billion to resolve allegations under the civil False Claims Act that the company illegally promoted four drugs – Bextra; Geodon, an anti-psychotic drug; Zyvox, an antibiotic; and Lyrica, an anti-epileptic drug – and caused false claims to be submitted to government health care programs for uses that were not medically accepted

> indications and therefore not covered by those programs .. As part of the settlement, Pfizer also has agreed to enter into an expansive corporate integrity agreement with the Office of Inspector General of the Department of Health and Human Services. That agreement provides for procedures and reviews to be put in place to avoid and promptly detect conduct similar to that which gave rise to this matter. ” (Justice.gov)

Pfizer also paid a $430 million fine in 2004 concerning off-label promotion for the drug Neurontin. I found it interesting that I couldn’t find any news stories about these fraud settlements mentioned in any news story during the months that Pfizer was presented as a leader in developing a vaccine for Covid 19. The previous fraud settlements didn’t necessarily mean that Pfizer’s Covid 19 vaccine wouldn’t work as advertised. It’s just part of the way ‘real journalists’ cover news. They give news consumers ‘all the facts.’ The federal government was trusting a company it had previously fined for corruption to ‘fast track’ a vaccine for Covid 19.

As for Johnson & Johnson, it had to pay more than $2.2 billion to resolve criminal and civil investigations by the the Justice Department in 2013 — allegations included off-label marketing and kickbacks to doctors and pharmacists —

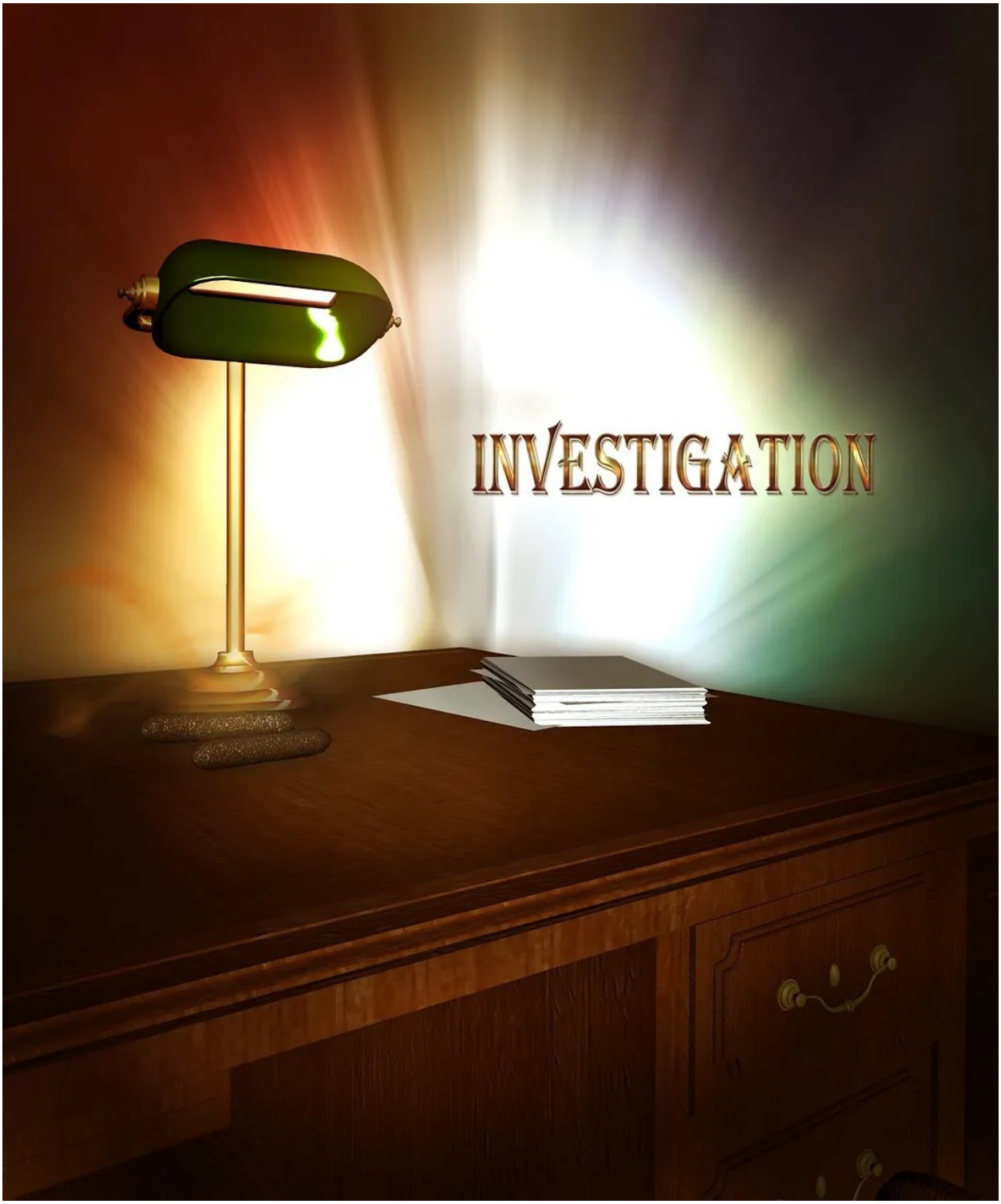
> "relating to the prescription drugs Risperdal, Invega and Natrecor, including promotion for uses not approved as safe and effective by the Food and Drug Administration (FDA) and payment of kickbacks to physicians and to the nation's largest long-term care pharmacy provider. The global resolution is one of the largest health care fraud settlements in U.S. history, including criminal fines and forfeiture totaling $485 million and civil settlements with the federal government and states totaling $1.72 billion." (Department of Justice)

Again, no news story that I could find at the time mentioning this as Johnson & Johnson was a leading contender for producing a vaccine for Covid 19. Why not?

Interestingly, Johnson & Johnson was fined $5 billion as part of a massive opioid medication investigation that fined four companies a total of $26 billion (NPR). NPR did not mention Johnson & Johnson's involvement in manufacturing a vaccine for Covid 19 in its story. Why not? The fine was announced in early 2022 when Johnson & Johnson was still involved in an attempt to be a vaccine provider. The FDA and CDC paused the use of the J&J vaccine in March of 2021 for 11 days out of concern for a blood clotting disorder. The FDA finally withdrew its authorization for J&J's Covid 19 vaccine a year later— "ending its short-lived but troubled existence amid the pandemic" (ARS Technica).

Even though the vaccine was not approved for use in the United States, the European Union approved the Sanofi-GSK Covid 19 vaccine in 2022. GSK stands for GlaxoSmithKline. That company paid the largest fine to the U.S. Federal Government in 2012 for $3 billion ($1 billion criminal, $2 billion civil) for off-label promotion and failure to disclose safety information (Justice.gov). No news stories I saw during the development of the Covid 19 vaccine mentioned GlaxoSmithKline's previous fines. Why not? Did journalists

not know? Not care? Were they silenced because of the tremendous wealth and power of pharmaceutical companies? The public that depends on a ‘free press’ has the right to know.


INVESTIGATION

Your Investigation

You may be thinking that your investigation into a small business in your community doesn't compare with what I just described. However, the issue is not the amount of money involved or the size of the company but confirmed fraud against the public. The news media/press exists as a 'watchdog' for the public, so the size, wealth, or power of the business should have no impact on how a journalist does his or her job in watching out for businesses that attempt to defraud the public and governments.

The manager at a local business who refuses to answer your phone calls or meet with you in person is the same situation a journalist faces when trying to get information from a national business refusing to answer legitimate questions about its business practices. I find little difference between investigating small businesses and large corporations except for the size and scope of its refusal to cooperate with journalists.

To be fair — many businesses and corporations will cooperate with journalists. Some have full-time media relations employees whose job is to answer journalists' questions. Smaller business owners and managers are often glad to answer your questions because they want to 'set the record straight' about complaints and concerns from the public. It's important for journalists to know how to properly handle both types of responses from businesses and corporations — cooperative and uncooperative.

You may also run into challenges from your employer if your investigation impacts a business that spends advertising dollars for your station, newspaper, or online outlet. I recommend that journalists take any concerns or threats from those businesses directly to your news director or executive editor. Hopefully, they will help you through the process while supporting the right of journalists to investigate for-profit businesses.

Investigating 'Not For Profit' Businesses & Foundations

How about 'not-for-profit' businesses and foundations? Many of these pay little if any taxes and often refuse to answer tough questions from the news media. One example are the more than 1.5 million NGO's (non-governmental organizations) in the U.S. What's the difference between an NGO and a 'nonprofit'?

Almost all NGOs are nonprofits, but not all nonprofits are NGOs. In the United States, nonprofits are organizations not designed to generate profit beyond what is needed to pay staff and fund their programs. Nonprofits operate without public shareholders or stocks and are tax exempt with a structure laid out in the U.S. tax code. On the other hand, NGOs usually operate as 501(c)(3) or 501(c)(4) nonprofits in the U.S. and do not pay taxes.

Nonprofit and NGO are not synonymous. There are organizations with nonprofit status that do not have the civil society mission that characterizes NGOs. Churches, for example, are nonprofit organizations, but most would not consider themselves NGOs. Still, these terms are often used interchangeably, particularly by people who do not work within the sector. Plural Policy

A non-governmental organization (NGO) is a group that functions independently of any government with the objective of improving social conditions. NGOs are typically non-profit institutions. They are sometimes called civil society organizations and are established on community, national, and international levels to serve a social or political goal such as a humanitarian cause or the protection of the environment.

For example, NGOs might focus on activities in areas involving health or health emergencies, education, infrastructure, advocacy of minority rights, support of the poor, and the reduction of crime. Investopedia

A non-profit organization is a group organized for purposes other than generating profit and in which no part of the organization's income is distributed to its members, directors, or officers. Non-profit corporations are often termed "non-stock corporations." They can take the form of a corporation, an individual enterprise (for example, individual charitable contributions), unincorporated association, partnership, foundation (distinguished by its endowment by a founder, it takes the form of a trusteeship), or condominium (joint ownership of common areas by owners of adjacent individual units incorporated under state condominium acts). Non-profit organizations must be designated as nonprofit when created and may only pursue purposes permitted by statutes for non-profit organizations. Non-profit organizations include churches, public schools, public charities, public clinics and hospitals, amateur sports organizations, political organizations, legal aid societies, volunteer services, organizations, labor unions, professional associations, research

institutes, museums, and some governmental agencies. Cornell Law School

The U.S. has almost two million non-profit organizations and foundations —

- 40% of nonprofits are religious organizations, schools, and foundations.
- The total revenue of nonprofits has grown from a little more than $1 trillion in 2000 to about $3 trillion.
- Only 50% of nonprofits are successful, and 30% of them will cease to exist after ten years. Network Depot

Foundations — Legal and Regulatory Differences

The basics of investigating non-profit organizations and foundations are similar to what I described earlier. However, it's helpful to understand the legal and regulatory differences. Many wealthy foundations are private, which means journalists may not even know about them. They operate as 501(c)(3) organizations, which means the IRS grants them tax-exempt status. While public charities (also tax exempt) depend on donations, private foundations often run on endowments. Some of the foundations' invested returns are used for philanthropic purposes.

Other philanthropic organizations that are not foundations but pay no taxes include churches, colleges, universities, hospitals, medical clinics, and other charitable groups. You can learn a lot about them through documents filed with or investigations by the —

- IRS
- Postal Service
- Securities and Exchange Commission
- Federal Communications Commission
- Occupational Safety and Health Administration
- Equal Employment Opportunity Commission
- Department of Labor, Wage and Hour Division
- Environmental Protection Agency
- Department of Justice
- United States Citizenship and Immigrations Services Department
- Federal Department of Transportation
- and other government agencies

Also check with your local and state agencies to see how they might be involved in regulating or investigating a non-profit you are investigating.

If you find yourself investigating a private foundation, I recommend you become familiar with IRS Form 990-PF. The information in the form often includes names, funds received and spent, sales of stocks and bonds, foundation projects and costs, etc. — the kind of information investigative journalists need and want. You can also check out the IRS 'EO Operational Requirements' for more information about private foundations and public charities.

If you are tasked by your employer with investigating a non-profit organization, you will find many online resources to help you. I was a member of IRE (Investigative Reporters & Editors) for many years, so I'll point you to The IRE Resource Center as a good place to begin. I was also a member of SPJ (Society of Professional Journalists) for several years and you may find their Investigative Journalism Toolbox helpful.

Final Thoughts

I would say ‘good luck’ to you, but solid investigative journalism takes a lot more than ‘luck’ to be successful. It takes curiosity and skepticism, along with a healthy helping of courage.

Good investigating!

1960s Radio News, © Mark McGee