

# Investigative Reporting 101

Business Investigations

'For Profit' and 'Not For' Profit

By

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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.

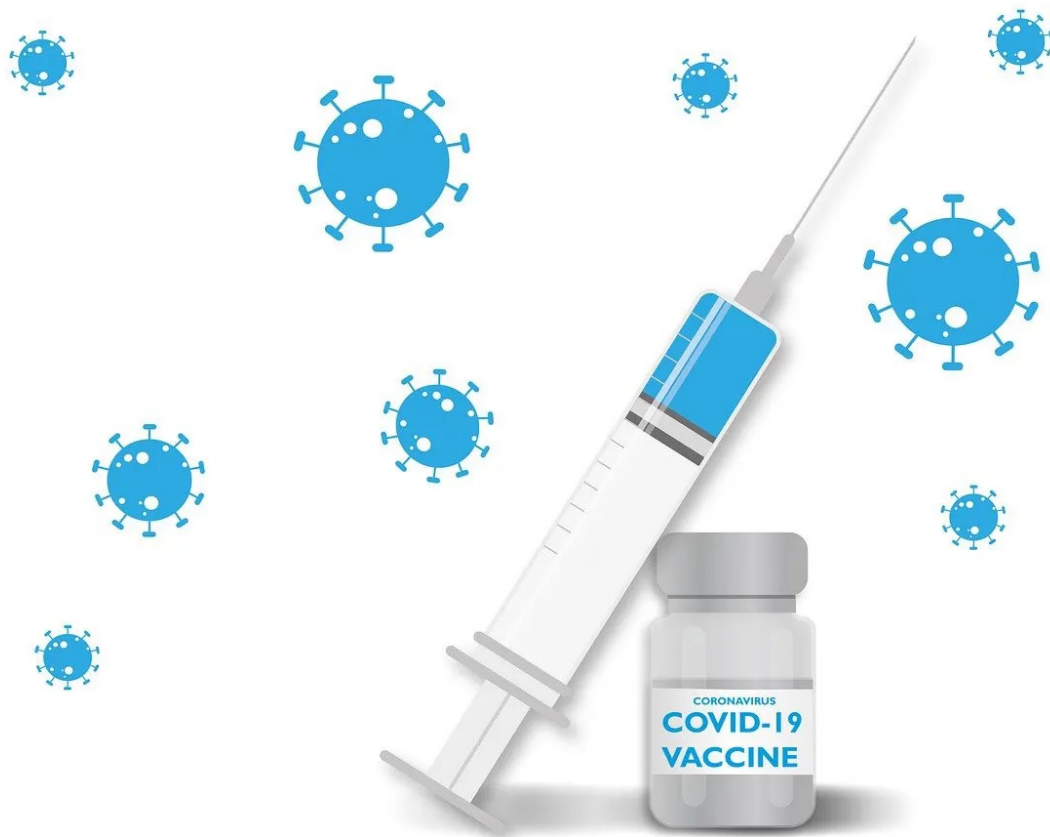
One way to do that is online. Rather than depend on the business website look for any previous investigations, complaints, fines, etc., that may be public record. You can find those by the words you use in your online search —

- 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](https://www.justice.gov/opa/pr/pfizer-settles-fraudulent-off-label-promotion-litigation))

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.



# 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