

# THE IRE JOURNAL

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### ABOUT THE COVER

What do Yoda, Georgia O'Keeffe and Van Gogh have in common? Plenty, if you examine the arts. From private collectors to public museums, huge amounts of money are involved in a world that often blurs the line between private and public funds. Determining what is real, and what isn't, is often the key to news investigations.

**Cover story, page 18**

**Cover photo illustration by, Wendy Gray, The IRE Journal**

## THE IRE JOURNAL

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## FROM THE IRE OFFICES

# Investigations by nonprofit teams prevail



BRANT HOUSTON

As mainstream newsrooms' cutbacks continue apace we may see independent and nonprofit organizations getting a bigger piece of the investigative pie. Although they seldom receive the recognition they should, these news organizations have been doing significant and often groundbreaking work.

For more than 10 years, the nonprofit Center for Public Integrity in Washington, D.C., has produced in-depth and startling stories. Led by its founder Charles Lewis, the center has covered numerous topics, including food safety, campaign finance, international tobacco smuggling, the media's influence on federal legislation, and conflicts of interest in state legislatures.

Calling itself "a watchdog in the corridors of power," the center states its mission as "to provide the American public with the findings of its investigations and analyses of public service, government accountability, and ethics-related issues."

The center's most recent book is "The Cheating of America," in which it shows how wealthy individuals and corporations avoid paying their fair share of taxes. It also is running the "50 States Project," a dissection of the conflicts of interest of state legislators.

Lewis, who was a 60 Minutes producer, seeks funding from foundations and private donors instead of advertisers. Although foundations have their own agendas, Lewis has shown it is possible to maintain the center's independence in its judgment and projects. The center has won numerous awards for its investigations (including one from IRE this year for online work) and has consistently attracted notice, especially when it broke the Lincoln Bedroom stay-over story at the Clinton White House.

Over the years, the center also has drawn more funding support, expanded substantially, and created a global team of 70 or so journalists under its division, the International Consortium for Investigative Reporters.

More on the center's work can be found at [www.publicintegrity.org](http://www.publicintegrity.org) and at [www.icij.org](http://www.icij.org)

### Informing through muckraking

Meanwhile, the Center for Investigative Reporting in San Francisco is preparing to celebrate its 25th anniversary next year, the same year in which we will hold the IRE National Conference in San Francisco (May 30-June 2).

Through all the changes in investigative reporting and its popularity, the non-profit center has persistently pursued provocative, hard-to-nail-down stories, often in collaboration with broadcast networks. The center also works with magazines and newspapers.

The center describes its mission as seeking "an informed citizenry and a dynamic democracy" and that to do that it "conducts in-depth investigations of hidden or complex topics that impact public life, for broadcast or print in the media."

In the past few years, the center has had a particularly productive arrangement with Frontline and San Francisco TV stations, resulting in stories on gun trafficking, schools, the environment and the military. More on its recent work can be found at [www.muckraker.org](http://www.muckraker.org).

Also in San Francisco, the magazine *Mother Jones* has refocused its efforts on in-depth work under its new editor Roger Cohn and investigations editor Eric Bates. While its umbrella nonprofit, The Foundation for National Progress, has a strong ideology, the enterprise work at *Mother Jones*, published six times a year, is well-documented and well-reported. In fact, it won this year's National Magazine Award for General Excellence in its circulation category.

CONTINUED ON PAGE 32 >

*Brant Houston is executive director of IRE and the National Institute for Computer-Assisted Reporting. He can be reached through e-mail at [brant@ire.org](mailto:brant@ire.org) or by calling 573-882-2042.*

## International conference draws from around globe

More than 300 journalists from 47 countries attended the first-ever Global Investigative Journalism Conference, held April 26-29 in Copenhagen.

The conference, a joint project of Investigative Reporters and Editors and several European journalism organizations, focused on the increasing need for reporters to cross borders to get the full story. The gathering included reporting panels, hands-on training in computer-assisted reporting techniques and informal discussion groups.

Opening the conference was Danish Prime Minister Poul Nyrup Rasmussen.

Although attendance was strongest from Scandinavia, reporters and editors were well-represented from the emerging democracies of Eastern Europe and from the Balkans. Participants came from as far away as Africa, Asia and Latin America.

Jørgen Flindt Pedersen, chairman of FUJ, the Danish equivalent of IRE, said the conference was meant to kickstart more cross-border cooperation between journalists.

"We hope this is the beginning of a long cooperation between journalists and journalistic organizations that puts quality, exchange of methods and cross-border work into focus," he said.

IRE Executive Director Brant Houston agreed and said that the conference was successful enough for the groups to begin planning future international gatherings.

Organizing groups included IRE, the Danish Organization for Investigative Journalism, the Danish Organization for Computer-Assisted Reporting, the Mid-Career Institute for Journalism in Denmark, Danish School of Journalism, the European Journalism Centre, Grävande Journalister in Sweden, the Association for a Critical and Investigative Press from Norway

and Investigative Journalists from Bulgaria.

Helping sponsor the conference were the Open Society Institute, which assisted speakers from Central and Eastern Europe; the Danish Foreign Ministry, which assisted speakers from economically developing nations; Nordisk Film's Fond; Dagspressens Fond; Politikens Fond; and the three newspapers Information, Kristeligt Dagblad and Aktuelt.

## New training director named for IRE, NICAR

Ron Nixon, IRE's director of the Campaign Finance Information Center since late last year, has been named IRE's new training director. He succeeds Tom McGinty, who moved to a reporting position with *Newsday* after two years at IRE's offices.

Nixon, who will work from the Washington, D.C., area, was an investigative reporter with the *Roanoke (Va.) Times*. His work has won numerous state awards including the public service award from the Virginia Press Association. The CFIC is administered by IRE and the National Institute for Computer-Assisted Reporting. It is dedicated to helping journalists conduct more in-depth coverage of campaigns by following the campaign money trail.

## Planning under way for CAR conference

The National Computer-Assisted Reporting Conference for 2001 is set for Oct. 11-14 in Philadelphia. *The Philadelphia Inquirer* will serve as the local host and the sessions will be held at the Loews Philadelphia Hotel.

The annual event is known for its practical, yet cutting-edge training. More than 50 panels will touch on every newsroom beat. Hands-on classes for beginners and experts will cover spreadsheets, databases, mapping, SPSS and SAS. Internet training will address important Web sites, search techniques no reporter can do without and backgrounding people and businesses online. A special track will focus on census stories. As always, there will be exhibitors, networking and computer software demonstrations.

This year, John Allen Paulos, a professor of mathematics at Temple University and author of *Innumeracy* and *A Mathematician Reads The Newspapers*, will be a speaker. He's also a member of the editorial board at the *Philadelphia Daily News*.

Registration information can be found at [www.ire.org/training/philly/](http://www.ire.org/training/philly/) or by calling the IRE offices at 573-882-2042.

## MEMBER NEWS

**P**aul Adrian, an IRE Board member, has accepted a position on the city beat at KDFW-Dallas, a FOX affiliate. ■ **Peter Bhatia**, executive editor of *The Oregonian*, has been elected secretary of the American Society of Newspaper Editors. ■ **Bryan Brumley**, formerly the AP's London-based technology writer, is now chief of its Portland, Ore., bureau.

■ **Pat Coleman**, director of IRE's Resource Center, co-authored two academic papers accepted for presentation at the Association for Education in Journalism and Mass Communication's August 2001 convention. The papers examine the coverage of women's sports in four San Francisco Bay area papers before, during and after the 1996 Olympics.

■ **Maureen Fan** left the *San Jose Mercury News* demographics beat to start a new beat for the paper: business and technology in the Northeast. ■ **Richard Galant** has moved from associate managing editor of *Newsday* in Melville, N.Y., to deputy managing editor.

■ **Howard Goldberg** has moved from news editor to assistant chief of the AP's Columbus, Ohio, bureau. ■ Reporter **Lisa Greene**, formerly with *The Tampa Tribune*, is now with the *St. Petersburg Times*. ■ **Mary Hargrove**, an associate editor of the *Arkansas Democrat-Gazette*, won the Newspaper Guild's 2000 Heywood Broun Award for her series revealing the failures of the Arkansas juvenile justice system. An honorable mention went to **Darcy Spears** of KVBC-Las Vegas for her report on a young man wrongfully imprisoned for 15 years. ■ **Cathy Tatom**, of KETA radio in Tulsa, Okla., won three reporting awards from the SPJ's Oklahoma chapter. ■ **Karl Schoenberger's** new book, *Levi's Children: Coming to Terms with Human Rights in the Global Marketplace*, will come out in paperback, published by the Grove Press. ■ **Eric Nalder** has left *The Seattle Times*, where he was

CONTINUED ON PAGE 35 >

Send Member News items to Len Bruzzese at [len@ire.org](mailto:len@ire.org) and include a phone number for verification.



Ed DeLaney, left, one of IRE's founders and current Board secretary, talks with Peta Basildon of Zimbabwe at the Global Investigative Reporting Conference held in Denmark.

Photos: Len Bruzzese | The IRE Journal

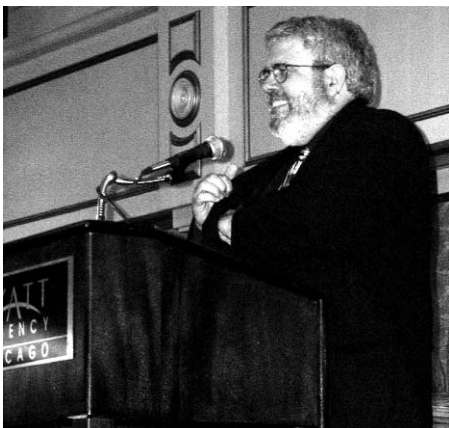


Laura Washington, of the *The Chicago Reporter* speaks with Jay Harris, formerly of *San Jose Mercury News*, during the IRE Showcase Panel. The panel also featured Neal Shapiro, NBC, and Charles Lewis, Center for Public Integrity, and was moderated by Geneva Overholser of the Missouri School of Journalism's Washington Program.

# NEW BOARD MEMBERS ELECTED AT CHICAGO CONFERENCE

BY THE IRE JOURNAL STAFF

**I**RE members elected five new members and one incumbent to their board of directors at the IRE National Conference held June 14-17 in Chicago. The conference drew nearly 900 journalists and boasted about



David Cay Johnston, of *The New York Times*, makes a pitch to fellow IRE members for the IRE Endowment fund, explaining how they should push their companies to match their donations.

100 panels, workshops and roundtables, as well as a salute to the latest IRE Award winners.

Re-elected to the board was David Boardman of *The Seattle Times*. Newly elected were Chris Heinbaugh, WFAA-Dallas; Cheryl Phillips, *USA Today*; Duane Pohlman, KING-Seattle; James Grimaldi, *The Washington Post*; and Mark Rochester, *Newsday*.

The new board then named its officers. James Neff moved from president to chairman, David Dietz moved from vice president to president, Shawn McIntosh moved from treasurer to vice president and academic member Joel Kaplan was named treasurer.

During the annual membership meeting, a “futures committee” – appointed last year following member concerns over several issues, including a board-backed drive to institute mail-in voting – offered its report to the membership. Mike McGraw, *The Kansas City Star*, said the nine-member committee had worked through the concerns and was making several

recommendations to the board. Included:

- An absentee balloting process should be devised by staff that allows early candidacy declaration and permits early voting by members who will be unable to attend the annual conference. Absentee voters would have to request a ballot. The panel suggests the process take effect in time for the 2002 National Conference. Those attending the conference would still have to vote at the conference.
- No term limits should be enacted. Voting by the membership is adequate to resolve any issues in this area.
- No changes should be made to the current limitation of one academic member on the board.

Members of the Futures Committee were: McGraw; Jim Polk, CNN; James Steele, *Time*; Dianna Hunt, *Fort Worth Star Telegram*; Victor Merina, Poynter; David Boardman, *The Seattle Times*; Shawn McIntosh, *The Clarion-Ledger*; Deborah Nelson, *Los Angeles Times*; and David Dietz, Bloomberg.

Financial reports offered to the membership by Executive Director Brant Houston and Board Treasurer Shawn McIntosh focused on efforts to maintain the organization’s level of services while aiming for a small amount of growth. Budgeting for the new fiscal year (beginning July 1) was conservative, they said. (For more detail, see the May-June issue of *The IRE Journal*.)

## UPCOMING EVENTS

Some of the conferences, workshops and other training events already scheduled:

2001	2002
<b>July 15-20</b> Columbia, Mo. CAR Boot Camp	<b>Jan. 6-11</b> Columbia, Mo. CAR Boot Camp
<b>Aug. 5-10</b> Columbia, Mo. CAR Boot Camp	<b>Jan 11-12</b> Washington, D.C. Regional
<b>Aug. 16-17</b> Washington, D.C. National Press Club Workshop	<b>Spring (date TBA)</b> Brussels, Belgium International
<b>Oct. 11-14</b> Philadelphia National CAR	<b>May 30-June 2</b> San Francisco IRE National

Rose Ciotta, board member and chairman of the Endowment Committee, reported that the IRE endowment fund stood just above \$1 million. She said the most important development in the past year was the involvement of a professional money manager. While the fund was down 1.16 percent during the period of Dec. 8 to May 31,

the S&P 500 was down 5.99 percent.

Also during the membership meeting, elections for contest judges took place. Andy Hall, *Wisconsin State Journal*, and Steve Doig, Arizona State University, were chosen to join the standing contest committee as judges in the next year's IRE Awards.



IRE holds a luncheon for its minority fellowship winners at the Chicago conference. Joining the fellows are representatives of the minority journalism groups: Dianna Hunt, left, of IRE and the Native American Journalists Association, and Herb Lowe, far right, of the National Association of Black Journalists. Fellow Carlos Hernandez Gomez, of the *The Chicago Reporter*, is second from left, seated next to new IRE Board president David Dietz.

## ELECTION RESULTS

### Re-elected to board:

David Boardman

### New to board:

Chris Heinbaugh

Cheryl Phillips

Duane Pohlman

James Grimaldi

Mark Rochester

### Also running:

Andy Hall

Mark Lagerkvist

### Elected as IRE Awards judges:

Andy Hall

Steve Doig

### NEW BOARD OFFICERS

James Neff, Chairman

David Dietz, President

Shawn McIntosh, Vice President

Joel Kaplan, Treasurer

# Knight Center for Specialized Journalism Fellowships for Journalists:

## THE NEW WORKPLACE

September 9-14

The death of loyalty and other issues.

Deadline: August 3

## ELECTRICITY: DECONSTRUCTING DEREGULATION

October 21-24

Business basics, consumers' costs.

Deadline: September 14

## EDITORIAL WRITERS SEMINAR

December 5-7

Subject to be announced.

Deadline: October 26

Fellowships cover instruction, lodging, meals and reading materials. Funded by the John S. and James L. Knight Foundation, the center is affiliated with the University of Maryland's Philip Merrill College of Journalism. Speakers are experts from research centers, government, business and the media.

**To apply**, send four copies each of: a resume; a statement of up to 500 words giving the reasons for applying; a supervisor's strong nominating letter that also agrees to cover salary and travel; and three published articles. Editors may send work they edited; broadcasters send one audiotape or VHS videotape. Freelancers send a letter of recommendation from an editor. Applications must be received by the deadline.

Send application materials to: **Knight Center for Specialized Journalism • 290 University College • University of Maryland • 3501 University Blvd. East • Adelphi, MD 20742-8068 • (301) 985-7279 • [knight@umail.umd.edu](mailto:knight@umail.umd.edu) • <http://www.inform.umd.edu/knight>**



# GORE AND OXY

Ties between family, Occidental Petroleum investigated after California oil field deal

BY NATHANIEL HELLER

THE CENTER FOR PUBLIC INTEGRITY

**T**wo years before the official start of the presidential campaign, researchers at the Center for Public Integrity began gathering background documents for the book that would become “The Buying of the President 2000.”

Among the reams of federal financial disclosure reports reviewed by Center writer Russ Tisinger was an interesting detail about Vice President Al Gore: He held more than half a million dollars worth of stock in Occidental Petroleum. In addition, the vice president had received income from Occidental for the lease of land for zinc mining at his family’s estate in Carthage, Tenn.

It has long been known that Gore’s father,

Albert Gore Sr., had close ties with the chairman of Occidental Petroleum, Armand Hammer. Hammer was an industrialist and Cold War legend, renowned for his business dealings with the Soviet Union. The elder Gore had been Hammer’s closest ally in Congress. When Gore Sr. lost his Senate seat in 1970, Hammer hired him at a \$500,000 annual salary.

Since the time Gore Jr. joined the Democratic ticket in 1992, Occidental had contributed to various Democratic Party committees and causes totaling more than \$470,000 in “soft money” – a term that includes cash coming into the political process through wealthy people beyond the regulation of the Federal Election Commission.

## Selling Elk Hills

The center’s ability to marshal and analyze the information-gathering of two dozen writers and researchers gave it the crucial ability to combine these facts about Gore with another interesting detail. As part of Gore’s stewardship of the Clinton administration’s “reinventing government” initiative, the vice president had proposed the sale of the so-called Elk Hills petroleum field in Bakersfield, Calif. – the largest sale of U.S. government property in history.

Gore’s team argued that the field was inefficient under U.S. Navy control and should be sold, despite the \$400 million per year it earned in lease revenues. A confidential bidding process in 1998 awarded Elk Hills to Occidental Petroleum.

The center followed up by asking the Department of Energy for the names and amounts of the losing bidders. The department refused an informal request, and rejected a later one made under the Freedom of Information Act, on grounds that disclosure of the bid amounts would cause “competitive harm” to the companies affected. (The center has filed suit in U.S. District Court, asking the court to order the Energy Department to release the information. The case was not decided at press time.)

Other interesting facts turned up as we obtained more documents surrounding the sale from sources at the Energy Department. As part of the sale, the department was required to perform an environmental impact statement, known as an EIS, evaluating the sale. A review of more than 1,000 pages of the public EIS files showed that the vetting process had been accelerated, apparently to meet Congress’ deadline for the Elk Hills sale.

The Energy Department contracted the preparation of the environmental impact statement to ICF Kaiser, an engineering consulting firm whose board included former Rep. Tony Coelho, D-Calif., Gore’s future campaign manager. Sources familiar with the project admitted that they had never seen an environmental impact statement on such an unusually quick schedule.

Moreover, center research revealed conflicting information about the valuation of Elk Hills. An internal Energy Department report, referred to as “the upside study” and provided to all bidders on Elk Hills, estimated the Elk Hills field potentially to be worth up to \$6.64 billion – almost twice the \$3.65 billion that Occidental ended up paying. Occidental’s current estimates of the field’s size are even greater than those

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generated by the government, indicating that Oxy got the best of the bargain.

### Limited uncertainty

Interviews with knowledgeable Energy Department staffers and congressional sources indicated that energy officials and members of Congress either chose selectively to ignore the original "upside" Energy Department estimates or treat them as inaccurate.

Further, one Energy Department source told us that unspecified and unbudgeted administrative charges to complete the sale totaled a staggering \$84 million.

Center writers interviewed both government sources and energy specialists about the sale and its merits. Former Sen. Dale Bumpers, D-Ark., said that Oxy's \$3.65 billion was "a steal." An energy expert at George Washington University agreed that the sale was ill-advised, while another at Cambridge Energy Associates said the "upside" study was overly optimistic in its discount rate and estimates of extractable oil. In the end, writers ultimately relied on one telling fact: Oxy's estimates closely matched the Energy Department's "upside" study, in some ways exceeding its estimates.

Interviews with industry analysts on Wall Street revealed that within a month of winning the Elk Hills bid, Oxy told analysts that the company estimated the field had more than 1.3 billion barrels of oil equivalent (BOE), even more than the study had indicated.

"[Elk Hills] had been producing for ages, not necessarily well run, but there should have been limited uncertainty," one specialist said in an interview. "Anybody evaluating Elk Hills should have had a relatively easy time."

Still, then-Secretary of Energy Federico Peña was all too aware of a possible conflict-of-interest perception regarding Occidental. In a memo to President Clinton asking him to stage a signing ceremony in February 1998, Peña wrote, "Albert Gore Sr. is on Occidental Petroleum's Board of Directors. However, there is no dispute that Occidental was the highest bidder for the property in a very competitive and fairly administered sale process."

Competitive, but secret. The public still has no way of verifying the conditions surrounding the sale of Elk Hills to Occidental Petroleum.

*Nathaniel Heller writes for the Center for Public Integrity.*

## Progress and pitfalls

**D**uring the past year, freedom of information advocates faced some major setbacks, especially in the historically open sunshine state of Florida. In other places, news from the FOI front brought some steps forward.

Freedom of information advocates, journalists, attorneys and others gathered to share these ups and downs as well as strategies in Newport Beach, Calif., May 25-27 for the annual National Freedom of Information Coalition conference. The conference was hosted by the California First Amendment Coalition.

NFOIC, formed in 1989 in Dallas, joins First Amendment and open government organizations from individual states. Most NFOIC members are state FOI coalitions and other FOI organizations.

This year's conference addressed several hot First Amendment topics including: electronic court records, developing better local sunshine laws and how to conduct a public records compliance audit.

David Byers, an Arizona court administrator and president of the Conference of State Court Administrators, said administrators around the country are struggling with online access to court records. He said the conference is developing a model rule that states could use as a basis for changing their laws. The model rule will be presented at a meeting of the organization in Seattle on July 29.

You can see the CSCA position paper on access to court records at <http://cosca.ncsc.dni.us>. Check your state court's Web site for state proposed rules.

Byers warned that as documents are being scrutinized, court officials are rethinking which court documents should even be included in files.

Reporters concerned about what approach their states' courts will take should contact their state's FOI coalition.

California Attorney General Bill Lockyer spoke in support of open government and criticized Governor Gray Davis' practice of keeping state energy contracts secret. A strong supporter of open government, Lockyer also spoke in support of privacy when it comes to the Internet.

"Privacy in the information age is the parallel of environmentalism in the industrial age," Lockyer said.

Other California speakers included Los Angeles District Attorney Steve Cooley, who has had a policy of enforcing the Brown Act, California's

open meetings law. He said the public has been supportive of his stance.

"The public gets this a lot more than public officials," Cooley said.

Cooley noted a pattern of secret meetings among communities that are not in the "market" of a daily newspaper.

Representatives from 23 states talked about the progress and pitfalls of FOI issues in their states. Some of the highlights include:

- Results released in May of a poll conducted for the California First Amendment Coalition found that 86 percent of Californians want details of long-term power purchasing contracts made public. Seventy-one percent of the 1,000 respondents said they are getting too little information on how state officials are responding to the power shortage.
- Two states' open records laws went high-tech. Electronic records are now covered by the California Public Records Act and by the Arkansas FOI Act.
- Things became less sunny in Florida.

"This was the worst legislation year in 10 years," said Sandra Chance, director of the Brechner Center for Freedom of Information at the University of Florida.

The Florida legislature created a "chief privacy officer" for the state. The Earnhardt Family Protection Act exempted autopsy photos from the state's public records law. In addition, the legislature sealed reports of accidents or deaths in nursing homes and exempted home addresses and telephone numbers of human resource managers.

- In Indiana, Earnhardt-type legislation passed with no questions asked.
- Advocates in Mississippi had a better year. The legislature changed rules to open legislative conference committees to the public. They also got mayoral candidates in 14 cities to sign a pledge that they would follow open meetings and open records laws if elected.
- Public records audits were conducted in several states including New York, Connecticut and Iowa. Most found patterns of non-compliance, especially among law enforcement agencies.
- New freedom of information coalitions have been formed or are in the process of forming in Maine, New Jersey, Pennsylvania and Washington state.



JENNIFER LAFLEUR

*Jennifer LaFleur is co-chairman of IRE's FOI Committee and the computer-assisted reporting editor for the St. Louis Post-Dispatch. Before that, she was database editor for the San Jose Mercury News.*



# MINE SAFETY

## Oversight board lets violators slide

By R.G. DUNLOP

THE (LOUISVILLE) COURIER-JOURNAL

Until last December, the Kentucky Mining Board was little known outside the small circle of coal company employees and their lawyers who had appeared before it in connection with disciplinary hearings.

In theory, the board had considerable clout to make coal mines safer. Under state law, it could suspend or revoke the licenses it issued to coal companies and the certifications it granted to company supervisors and other employees.

Those were powers that could greatly strengthen the enforcement of mine-safety laws governing a high-risk industry in a major coal-producing state with a checkered safety record. Kentucky led the nation with 120 mining fatalities during the 1990s, and had among the highest death and injury rates.

But a *Courier-Journal* series last December found that the mining board didn't exert much

authority. In fact, very little discipline was ever imposed by the seven-member board, even in cases where coal miners were seriously injured or killed as a result of flagrantly unsafe – and sometimes illegal – practices underground.

Not surprisingly, in light of its passive approach to discipline, the board sought no publicity. It issued no press releases, circulated no reports of its activities and kept only the sketchiest of minutes. It wasn't even listed in official state telephone directories.

Immediately after the newspaper's series was published, Gov. Paul Patton and his Cabinet secretary with direct responsibility for the board both said they were unaware of any problems.

### Reviewing the records

The newspaper's inquiry began with a tip from a trusted, longtime source who said the board wasn't doing its job. Among its alleged failings: ignoring federal criminal mine-safety convictions that could have been the basis for board disciplinary action to rid the state's coal industry of scofflaws.

The tip consisted of a mixture of possible leads, the names of a half-dozen contacts and one specific case involving a federal mine-safety conviction that the source thought the board should have reviewed, but didn't.

The source was right about that case. But an initial round of interviews with federal and state mine-safety officials didn't yield much – although two would prove to be extremely helpful later on.

So the newspaper shifted its focus to public records, which contained substantial information.

The mining board granted the newspaper's request under the state open records law to review case files and board minutes dating back to 1990. Armed with a laptop computer, a reporter trekked to the board's suite of offices in Frankfort, the state capital.

Waiting on a table in a small, second-floor conference room were 10 ½ years worth of mining board case files – 82 in all. Some were slim, containing only the barest of information;

others were rich with transcripts, correspondence and mine-inspection reports.

The database we had set up in advance consisted of nine fields, including the defendant's name, occupation, employer and the board's final action, if any. Equally important, the database contained a memo field where we could log notes about the case gleaned from official documents in the files.

Even prior to doing any computer analysis of those mining board files, several things quickly became apparent from simply reading them.

For one thing, the board, whose seven members included three representatives from the coal industry and three from the United Mine Workers union, didn't hear many cases – an average of fewer than one a month.

That seemed a curiously small number for a state with 273 underground mines, approximately 17,000 certified miners and that dubious safety record – which also included a nation-leading 176 federal mine-safety criminal convictions during the same period.

The records also showed, and the newspaper reported in December, that the board rarely exercised its authority to suspend or revoke the underground mining privileges of coal company supervisors who violated safety laws. And never did the board suspend or revoke a company's license to mine coal, even when a miner was injured or killed as the result of unsafe practices.

Board minutes, also entered into the laptop in memo form, provided further evidence of possible problems. Despite the fact that the board's industry and labor members represented different constituencies, with presumably divergent points of view on at least some issues, not once in more than 10 years had any board member cast a dissenting vote in a disciplinary case. Every recorded vote was unanimous.

The minutes also showed that numerous cases had come before the board for brief discussion and then disappeared, either because the board chose not to act or because it postponed action indefinitely.

Several cases, it turned out, had been pending for more than a year. A particularly egregious one, involving the electrocution of a miner who was ordered by his supervisors to do electrical work despite having no formal training and lacking the proper certification, had languished in board limbo for nearly three years. All the while, the supervisors have remained in the coal industry.

The other essential records for the project



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were those covering federal criminal convictions for mine-safety violations. Our objective was to see whether the mining board was acting on the federal convictions or ignoring them, as it had in the case described by our initial source.

Under the federal Mine Act, most violations are misdemeanors and convictions usually result in fines and probated sentences. So, without action by the state mining board, companies and individuals generally were free to continue operating in Kentucky's coalfields.

### Building the database

Using the Freedom of Information Act to obtain documents from the U.S. Mine Safety and Health Administration, we built a database of all 396 mining-related criminal cases nationwide dating back to 1990. Then we compared the 176 Kentucky cases in that database with the 82 cases in the mining board database, to determine how many criminal mine-safety convictions the board had never reviewed.

The preliminary answer: 137 companies and individuals.

But we were reluctant to publish that number, much less the details of any particular case, without additional checking. We already were aware of a few minor discrepancies in the MSHA records and decided that we needed to look at court records to confirm basic information.

First we tried docket sheets, many of which were available through PACER, the federal judiciary's system for gaining access to court records. But docket sheets proved to be too sketchy for our purposes, especially with respect to sentences imposed. So we turned to case files.

That, however, was easier said than done. Kentucky has 10 federal courthouses scattered throughout a state that is roughly 400 miles long and 200 miles wide. And it wasn't immediately clear which case files were located in which courthouse. Moreover, many court files had been shipped to federal archives in Atlanta.

After prolonged negotiations and several written exchanges of case lists with federal court clerks, most of the files were traced to one of three courthouses and the center in Georgia.

Ultimately, after trips to each of those four sites, we were able to verify to our satisfaction the essential information about 124 Kentucky coal companies and individuals who were convicted of federal mine-safety violations but whose convictions were not reviewed by the mining board.

CONTINUED ON PAGE 30 >

## BLACK LUNG CLAIMS LANGUISH

Coal miners suffering the debilitating effects of pneumoconiosis, commonly called black lung, have little hope of recovery, and even less of getting financial compensation from the coal companies responsible for their illness. For more than 30 years, coal miners have had a legal right to compensation for black lung, but as a recent *Roanoke Times* investigation found, only rarely do the courts conscientiously protect that right.

As one of many measures designed to improve the quality of life for U.S. coal miners, the Coal Miners Health and Safety Act of 1969 act set up a trust fund to compensate miners with black lung. But after a few years, the fund was deep in debt, due to a steady stream of compensation claims and the refusal of some coal operators to pay their share of the taxes that formed the fund. So the rules of claiming compensation changed: as of 1981, coal miners were required to provide the preponderance of evidence that their illness was the direct result of working in the mines. Since that time, the number of successful claims has plummeted from nearly 75 percent of claims to less than 4 percent, according to the federal Government Accounting Office.

Ron Nixon, director of IRE's Campaign Finance Information Center, investigated this issue when he was with the *Roanoke Times*. He and other staff members looked at thousands of documents, did interviews with doctors, miners, coal operators, insurance industry representatives and union officials, and pinpointed a number of obstacles slowing down – and in many cases shutting down – the entitlement system for black lung victims.

Perhaps the most obvious obstacle is that the burden of proof in black lung compensation suits falls on the miners. When faced with the coal companies' deep-pocket defense teams and medical experts, a miner is hard pressed to finance a preponderance of evidence. A further obstacle is the shortage of lawyers willing to represent a miner in a black lung case because the trials are often lengthy and rarely see a favorable settlement. In Virginia, for example, only about five attorneys will take black lung cases.

Some coal industry representatives defend the state of the black lung compensation program by arguing that the decreased number of successful claims accurately reflects the fact that pneumoconiosis is decreasing. Others say that a number of other factors, such as smoking, are the real causes of black lung and therefore all claims for compensation and the very existence of a compensation program are fraudulent.

The coal industry has fought miners' compensation claims not only in court but also on Capitol Hill. In 1992, it lobbied against and effectively killed a bill that would have made it easier for miners to win benefits. In 1997, federal officials proposed new rules similar to the 1992 bill, specifically limiting the coal companies' presentation of evidence in order to offset the imbalance in litigation resources. President Clinton approved these rules in late December 2000, but the National Mining Association immediately filed suit opposing the rules. The Bush administration has temporarily halted the processing of new black lung claims, pending the outcome of this latest court battle.

# MOUNTAINTOP REMOVAL

Federal strip mining law ignored

BY KEN WARD, JR.

THE CHARLESTON (W.VA.) GAZETTE

It all started one day in late 1997. I was drinking coffee at the local bookstore with Pat McGinley, a West Virginia University law professor who is a trusted source and friend.

Well, we weren't just drinking coffee. We were reading one of those dreaded little books that contain parts of the Code of Federal Regulations. This one was 30 C.F.R., Parts 700 to the end. In it were all of the federal rules that govern surface coal mining in the United States.

On that day in 1997, Pat and I focused our discussion on mountaintop removal, a type of mining that is exactly what its straight-forward name implies. In mountaintop removal, coal operators use massive amounts of explosives to blast apart hilltops. Huge trucks haul away the low-sulfur coal seams that are uncovered. Giant shovels dump the leftover rubble – dirt and rock that used to be the mountain – into nearby valleys, burying streams.

That August, longtime investigative reporter Penny Loeb had published a stinging expose on mountaintop removal in *U.S. News and World Report*. My *Gazette* colleague Paul Nyden had spent years uncovering coal industry abuses, and wrote numerous articles about mountaintop removal over the years.

But Loeb's work gave the issue national prominence, and prompted those of us at the *Gazette* to delve into it more deeply.

Was the situation as bad as she wrote that it was? More importantly, if it was, how had it gotten that way? In 1977, Congress passed a federal law to regulate strip mining. Was it not working? Were state and federal regulators falling down on the job?

So the first thing I did, with the help of Nyden and some other environmental lawyers, was read the Surface Mining Control and

Reclamation Act, or SMCRA. I also read SMCRA's implementing regulations, the congressional history of the law, and as many law review articles on the subject as I could find.

I found that, during its arguments over SMCRA, Congress had considered a proposal by then Rep. Ken Hechler, D-W.Va., to ban mountaintop removal altogether. As so often happens, lawmakers compromised. They allowed mountaintop removal, but only under certain conditions.

Most of the time, coal operators must put strip-mined land back the way they found it. In legal terms, they must reclaim the land to its approximate original contour, or AOC. When you remove the top of a mountain, that's impossible. So lawmakers gave operators an out. They could remove mountaintops, ignore the AOC rule and leave formerly rugged hills and hollows flattened or as gently rolling terrain. But to get a permit to do so, companies had to submit concrete plans that showed they would develop the flattened land after it was mined. Coal operators had to build shopping malls, schools, manufacturing plants or residential areas on their old mine sites.

I suspected this wasn't really happening, and decided to find out. This was tougher than I expected. Employees of the state Division of Environmental Protection told me they didn't even know how many mountaintop removal mines they had authorized. DEP staffers had a great computer system to track permits, but they frequently didn't fill in the fields that labeled mine types being permitted.

I was able to get a rough list of possible mountaintop removal sites, and a second list of large permits that were probably mountaintop removal mines. That's when the real work started.

For three months, I spent most days huddled at a table in a back office that DEP calls its file room. I befriended a couple staffers there who seemed to be the only ones in the agency who knew where permit files were, and I started combing through the records. Every mine permit file filled three to six thick binders. Each had hundreds of pages, and dozens of maps. DEP had changed its permit application format several times over the years, so tracking variances and proposed post-mining development was tough.

Eventually, I built my own database of dozens of mining permits.

I found a shocking lack of enforcement by DEP, and a complete absence of oversight by the U.S. Office of Surface Mining, the federal agency that is supposed to make sure states properly enforce SMCRA.

Sixty-one of the 81 mountaintop removal permits that I examined were approved, even though they did not propose or contain AOC variances.

How could this happen? Spending hour after hour in the DEP office looking through files helped me to answer this question. Inspectors, permit writers and their supervisors got to know me, and felt comfortable talking to me. They would spend hours sitting and chatting with me over permit maps or reclamation cross-sections.

It turned out that DEP used to have a rule that any mine lowering the elevation of a mountain by more than 50 feet had to get an AOC variance. But at OSM's urging, that rule was eliminated. Any mine – no matter what kind of changes it made to the terrain – could get a permit as an AOC mine. DEP staff who knew and trusted me told me about this policy change, and provided the documents to explain how it happened.

## Ignoring responsibilities

In May 1998, I published a long Sunday piece that detailed my findings. I led by describing two DEP staffers' reactions when I asked them about how one huge mountaintop removal mine that was being left as a flat plain and a few rolling hills could possibly meet the AOC rule. The DEP staffers just laughed. "Approximate original contour is the heart of the federal strip mining law," I wrote. "But among many West Virginia regulators, it's becoming a joke."

Next, I turned to post-mining development plans. It turns out that, even when DEP required AOC variances for mountaintop removal mines,

it didn't require development plans. I was able to find 34 mountaintop removal permits with AOC variances. Only one included a post-mining development plan. There, the state built a new prison.

Almost all of the variance permits called for post-mining land uses called pastureland, hay land or something called "fish and wildlife habitat and recreation lands." In simple terms, coal operators were leaving their mountaintop removal sites – more than 50 square miles of land that used to be some of the richest and most diverse forests in North America – as leveled-off grasslands.

I published another lengthy Sunday article that explained how coal operators had gotten away with ignoring their post-mining development responsibilities.

Since then, it's been a pretty wild ride. At first, top OSM officials refused to acknowledge the blatant violations I had uncovered. But Rep. Nick J. Rahall, D-W.Va., demanded investigations. Soon, OSM admitted they had let the state get away with ignoring the law for years.

"We missed this issue," Roger Calhoun, director of OSM's West Virginia field office, told me. "We're trying to get on top of it now."

Back home, the West Virginia Highlands Conservancy filed a lawsuit in federal court to challenge DEP's illegal permitting of mountaintop removal mines. Among other things, the suit noticed the AOC and post-mining land use violations revealed by my stories.

## Burying streams

In the two years since the ruling, I've written hundreds of stories to follow the continuing controversy. *The Gazette* followed up with strong editorials, varied op-ed pieces and dozens of letters to the editor (<http://wvgazette.com/mining>).

In October 1999, U.S. District Judge Charles H. Haden II ruled that one of the main components of mountaintop removal was illegal. Haden said a federal rule that requires 100-foot buffer zones around perennial and intermittent streams outlaws valley fills in those waterways. The judge said that fills are allowed only in smaller, ephemeral streams (those that flow only when it rains or when snow melts).

Coal operators and their friends in the state and federal government reacted harshly. They said that the ruling would outlaw most strip mining. Without valley fills in large streams,

CONTINUED ON PAGE 30 ➤

## MINING FOR COAL STORIES

By Ken Ward, Jr.

Coal industry reporting isn't important just in West Virginia. The U.S. Energy Information Administration lists 16 states as coal producers, and classifies 11 other states as "lesser coal-producing states."

Everywhere that coal is produced – or ever was produced – has had profound effects on the environment, public health and the economy. Historian John Alexander Williams wrote that, "Persons who have studied the impact of coal mining on different societies from Silesia to northern Japan have usually concluded that coal has been a curse upon the land that yielded it." How could something like that not make for great investigative journalism?

So here are some tips on investigating coal, with an emphasis on its environmental impacts:

- Find out about coal production in your area. The EIA, part of the Department of Energy, has state coal profiles on its Web site at [www.eia.doe.gov/cneaf/coal/statepro/imagemap/usaimagemap.htm](http://www.eia.doe.gov/cneaf/coal/statepro/imagemap/usaimagemap.htm). EIA can also provide you production data and trends, employment figures, emissions figures and a host of other valuable information.
- Learn about how coal's environmental impacts are regulated. You can read the 1977 Surface Mining Control and Reclamation Act on OSM's Web site at [www.osmre.gov/smcra.htm](http://www.osmre.gov/smcra.htm). The OSM site also has descriptions of the agency's major programs and the text of federal surface mining regulations. Or, OSM will mail you a little booklet with SMCRA in it. You can request free information from OSM at [www.osmre.gov/order1.htm](http://www.osmre.gov/order1.htm). Two great books are also very helpful. Friends of the Earth will send you a copy of "The Strip Mining Handbook." Go to [www.foe.org/pub/pubpage2.html](http://www.foe.org/pub/pubpage2.html) on their Internet site. The Environmental Law Institute published, "Environmen-

tal Regulation of Coal Mining, SMCRA's Second Decade," and it's available from their Internet site at [www.eli.org](http://www.eli.org). Don't forget, though, that regulation of coal is a complicated scheme involving multiple agencies. Judge Haden's October 1999 opinion provides a good overview of how EPA, OSM, the Army Corps of Engineers and state agencies interact on coal matters. The opinion can be downloaded from the Gazette's Web site at <http://wvgazette.com/static/series/mining/hadenappeal.html>.

- See how well your state regulates coal. Every year, OSM publishes a report examining each state's policing of the coal industry's environmental impacts. Those reports are available on OSM's Web site at [www.osmre.gov/report00.htm](http://www.osmre.gov/report00.htm). You can get the industry's point of view from the National Mining Association ([www.nma.org](http://www.nma.org)) or from your state coal association. (A list is available at [www.coalinfo.com/index.html#associations](http://www.coalinfo.com/index.html#associations).) Various environmental groups also have launched Web sites that focus on mining issues. Among them are the Ohio Valley Environmental Coalition ([www.ohvec.org/mountains04.htm](http://www.ohvec.org/mountains04.htm)), the Citizens Coal Council ([www.citizenscoalcouncil.org](http://www.citizenscoalcouncil.org)) and the Save Our Waters Coalition ([www.saveourwaters.com/home.html](http://www.saveourwaters.com/home.html)). Also, Penny Loeb's 1997 U.S. News and World Report expose is available at [www.usnews.com/usnews/news/coalhigh.htm](http://www.usnews.com/usnews/news/coalhigh.htm).
- If you're looking for current coal issues, consider writing about coal waste dams, a hot topic in the wake of the October 2000 collapse of a dam in Martin County, Ky. The U.S. Mine Safety and Health Administration has posted a bunch of dam safety information its Web site at [www.msha.gov/impoundments/impoundmenthp.HTM](http://www.msha.gov/impoundments/impoundmenthp.HTM).

# CHILDREN IN CUSTODY

## Newspaper examines trend toward grade-schooler arrests

BY CURTIS KRUEGER  
THE ST. PETERSBURG TIMES

**A**fter he kicked a cop, Trayvon McRae was handcuffed and arrested on a charge of battery on a law enforcement officer.

Nothing too surprising there – except that Trayvon is a 6-year-old kindergartener, so small that the officer snapped a single cuff around both of the boy’s tiny wrists.

In researching a story about grade-school children who get arrested in Florida, we learned that kids as young as 7 are sometimes held overnight in detention centers; kids as young as 8 are taken to adult jails to wait for their parents; and kids as young as 10 can be sent away for a year or more.

We also discovered that kids with mental and emotional problems are the ones most likely to be led away from their grade schools in handcuffs.

Felons in elementary school? This seemed to us to be a new development in the nation’s increasingly harsh treatment of juvenile offend-

ers. Many excellent articles have been written in recent years about the growing tendency of prosecutors to try children in adult courts and send them to adult prisons. But this trend involving grade-school children in the juvenile system has escaped widespread attention.

This story didn’t begin with a traditional tip. It began in the midst of another story, when I attended a local juvenile justice conference, expecting to write about a speech by a state official. I slipped into a session on juvenile crime trends and that’s when I heard about the small, but steady, number of very young offenders in Florida.

I think this is a reminder that good stories sometimes come from mundane places – and that your own experience as a journalist is very valuable. I had just written about a 12-year-old boy whose first charge came at age 8. And years ago, someone told me of an 8-year-old housed in our detention center. These cases resonated in my memory. So when I attended the conference,

I knew we had an important story, more than just a smattering of statistics.

### Cooperative sources

From the beginning, my editors Jennifer Orsi, Rob Hooker and Neil Brown wanted this story to be told through the personal tales of children who had been arrested. This was very time consuming and tedious, but two aspects of Florida law helped us:

- Juvenile courts are open. The case files of each child are closed, but you can go to court and watch cases. I started showing up for arraignments and looking around for little kids. Eventually, I made contact with people in the system nice enough to let me know when little tykes were going to be on the calendar, so I didn’t have to waste time. You’re likely to encounter similar goodwill if you embark on a story like this one. Juvenile Court is somewhat arcane even to most lawyers, so when people spot an outsider willing to take the time and interest, they often are remarkably cooperative.
- In Florida, felony arrest affidavits are public – even of juveniles. Most people don’t know this. One police chief threw me out of his office when I suggested such a thing, and told me he would not even supply his reports if a school principal had requested them. After a few lawyer-to-lawyer talks (ours and his), and a few hundred dollars in research fees provided by us, we got stacks of reports from his agency and others.

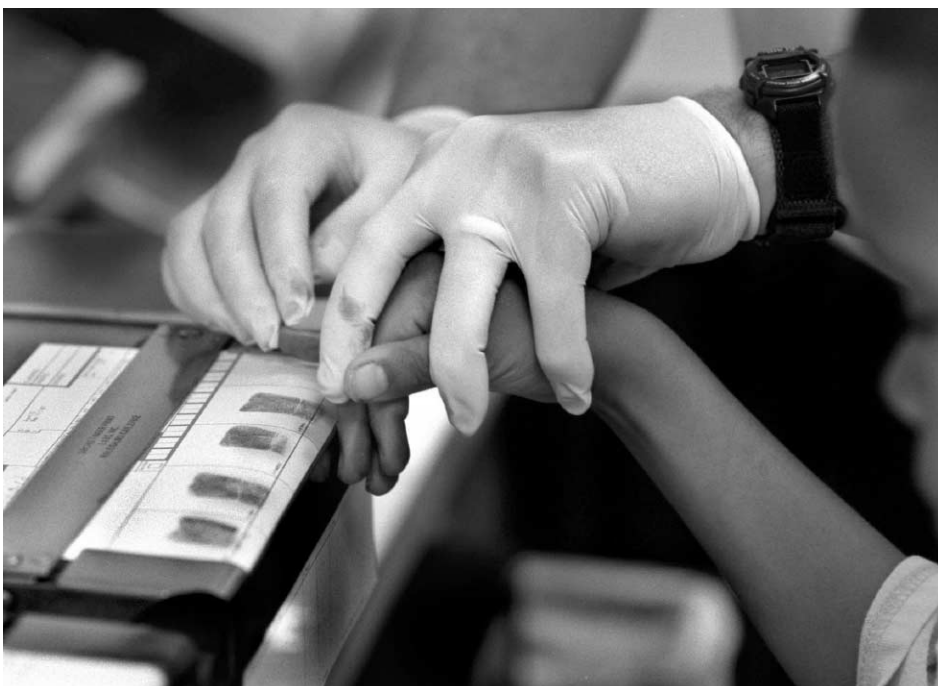
Check the situation in your own state – and don’t assume you know the answer – if you are interested in this issue.

But don’t give up if your system is a closed one. Photographer Cherie Diez proved that person-to-person contacts produce the best results. She was waiting in the Juvenile Assessment Center, where juveniles are processed after their arrests, hoping to find a child to photograph. A worker there told her, “You should have been here yesterday for the 6-year-old.”

She was sorry to have missed that. But with a few phone calls, I learned Trayvon’s name and drove to his mom’s house for a good interview.

In another case, I called a police officer I have known for a long time, who agreed to put me in touch with the mom of an 8-year-old with multiple charges. Turns out the woman was someone I already had contacted, but who had been reluctant to talk to me. Once the officer got in the picture, she was much more comfortable. Our interviews went well.

Cherie Diez | The St. Petersburg Times



An 8-year-old is fingerprinted at the Juvenile Assessment Center in Largo, Fla., after he was arrested on charges including battery on a law enforcement official.



Trayvon McRae, 6, plays on his front porch while his mother, Belinda Kelly, and his brother, watch. Trayvon was arrested in October 2000. There was a time children who got into trouble got off with a stern scolding. Now, children may be handcuffed, locked up and given a permanent criminal record for infractions.

Finding these people was the hard part. But having found them, the interviews often were easy – as they are with most people who have a story they truly want told. Parents were outraged about what happened to their children. Sometimes they weren't crazy about having their child's name and picture in the paper, along with theirs. But they agreed, because they thought this practice of arresting grade-schoolers should be exposed.

Of course, we talked seriously among ourselves about whether we should use names and pictures of such tiny defendants. We decided to, partly because our article generally showed these children not to be evil criminals, but rather, troubled children who often were being treated inappropriately. Also, we only used names if both the child and a parent agreed.

In spite of working so hard to track down people, we wanted this story to be more than a collection of anecdotes. It needed the weight and authority that only would come with complete

and accurate data on the scope of this problem.

In this we were lucky that the state Department of Juvenile Justice agreed to provide us a database of all children under 12 charged with crimes in Florida (excluding their names), which was analyzed by the *Times'* computer-assisted reporting specialist, Constance Humburg.

This showed us that young African-American juveniles are even more likely to be held in detention centers than older African-Americans.

### Tracking arrests

Many papers, including ours, do not cover the juvenile courts as a day-to-day beat. But we need to scrutinize this system. If you want to look at how your state or county treats grade-school kids, here are some things to keep in mind:

- If you have separate schools for "severely emotionally disabled" children, look closely to see how the number of arrests compares to mainstream schools.
- Learn how your schools discipline children

before they get arrested. Many can be locked in "secure seclusion rooms."

- Consider entering data you collect into a simple spreadsheet program. I did this with a stack of 71 police reports from the local school system. It helped me easily discover that half the arrests were at schools for severely emotionally disabled children, who make up less than 1 percent of the overall grade-school population.
- Be patient. It takes time to find people and sometimes it takes time for them to decide they want to talk to you. I like starting stories like this part time, so that I'm still producing bylines.

*Curtis Krueger has been a reporter at the St. Petersburg Times since 1987 and previously worked at The Journal-Gazette in Fort Wayne, Ind. He was a 1997-98 John S. Knight Fellow at Stanford University. The Times story, "Under 12/Under Arrest," can be found at [www.sptimes.com/News/webspecials/under12](http://www.sptimes.com/News/webspecials/under12).*

Jose M. Osorio | The Sacramento Bee



Jennifer Beeman, program manager with the Campus Violence Prevention Programs at UC Davis, talks to students who are peer counselors on sexual assault, campus violence and stalking.

# CAMPUS RAPES

## UNDERREPORTING BY SCHOOLS BOASTING SAFETY RECORDS

BY TERRI HARDY  
AND MATTHEW BARROWS  
*THE SACRAMENTO BEE*

**T**he *Sacramento Bee's* investigation documenting the University of California's widespread underreporting of sexual assault statistics throughout its nine-campus system began with an angry phone call from a former UC Davis employee.

Karla Grant, who had taught self-defense at UC Davis for 19 years, couldn't believe what she was reading. In a story about an attack on a 20-year-old UC Davis sophomore in her campus apartment, *The Bee* included statistics provided by the university showing only one rape or attempted rape on campus from 1995 to 1998.

Grant saw things differently. She told us that each year she polled her students and found that about 50 percent had been sexually assaulted in college. She worked closely with the campus rape crisis center and knew the numbers were much higher. The college's statistics, Grant said, were an attempt to whitewash its sexual assaults and protect its image.

"They have a lily-white, all-is-well attitude," said Grant. "I was stunned that that type of information was given by a university that knows better."

Those were strong allegations against a prestigious, 25,000-student university that

prides itself on its safety record – and uses that as a selling point for potential students. We didn't have any concrete numbers from Grant or names of victims whose cases had not been counted.

So, we decided to make a call to the one organization that might have a sense of the extent of the university's sexual assault problem – the Campus Violence Prevention Program. The director, Jennifer Beeman, told us that hundreds of students seek counseling a year. But she said she was unable to break down which students were victims of sexual assaults as opposed to other crimes such as domestic violence, stalking and hate crimes.

It wasn't a lot to go on, but we had one other intriguing bit of information. During an interview with a rape crisis counselor at UC Santa Barbara for an unrelated story, she mentioned that statistics put out by the university were not reflective of the sexual assault problem in the student community surrounding the campus.

That counselor said if she reported what was really going on at the university and nearby communities, she would report upward of 500 assaults a year. Instead, the university reported six assaults in 1998, the most recent statistics available at the time.

We took a look at sexual assault statistics other UC campuses were reporting on their Web sites. They seemed very low. At that point, the story appeared to be about the difference between the low statistics and the perception among law enforcement officials and victim advocates that there was a bigger sexual assault problem on campus.

It would take some time before we found that these campuses were apparently in violation of federal law.

### The Clery Act

The decision to look into all nine campuses would expand the investigation by several months. There was no gold mine database or key turning-point interviews. The reporting was an incredibly tedious process of interviews, poring over the Internet, federal regulations and columns of numbers and statistics.

But as we slowly began to learn more about crime reporting requirements – especially a federal law called the Clery Act – it became clear that some campuses found loopholes to avoid complete reporting, ignored the law, or simply just didn't know what they were doing.

Recognizing that crime victims, especially victims of sexual assault, frequently do not go to the police, the Clery Act requires colleges and universities to go beyond typical FBI statistics by including crimes reported to any university official such as professors, deans, coaches and until recently, counselors.

We began calling rape centers at each university, but didn't get much help. Many counselors said they either did not collect the data, or would not provide it, fearing that it would jeopardize their client's confidentiality. These arguments didn't make sense, because it seemed the centers would be required during their budget process to turn over information detailing the numbers of clients served.

We tried another angle. We sent each university a Freedom of Information Act request, asking for the underlying documents that went into the compilation of these annual Clery reports.

None of the universities provided us with the exhaustive information we were looking for, although some provided a smattering of numbers, or explanations of how they compiled the report. The exercise wasn't a waste of time, however, because it made it clear that most campuses' reporting processes were in disarray.

Two-thirds of the campuses told us that they only counted sexual assaults when the victim reported the crime directly to the police – a policy that the campuses, and the UC's Office of the President, defended. Some sex crimes were miscategorized, such as UC San Diego

placing sexual assaults under the board heading of "physical abuse."

After several weeks of scrutinizing the campus Clery reports, we made a startling find: It looked like UC Irvine and UC Riverside had not compiled Clery Act statistics in the 10-year history of the law and instead had simply republished less-extensive statistics required by the FBI.

When confronted with this, the campuses admitted it was true. UC Irvine's campus police chief said she remembered receiving updates and changes to the Clery Act, but never realized they applied to Irvine.

"... I was sitting here fat, dumb and happy, not aware we were supposed to put all that information in one place," she said.

We also began to pore over stories from campus newspapers, discovering sexual assault cases that made campus headlines, but not the statistics.

We read that at UC Riverside in 1997, for example, a man jogging on the campus track was struck on the head, tied up and forced to perform oral sex. Though he reported the attack to police, we found they had listed it not as a forcible sex offense, but as aggravated assault.

The police department's explanation: Under their interpretation of federal law, men can't be raped.

And we finally found a smoking gun.

In 1999, UC Davis applied for a federal grant to combat campus crime. In the application, the university described an "epidemic" of violence against women at the campus and said that nearly 200 women had received counseling or advocacy at the university in 1998.

The picture painted in that application ran counter to the sparse statistics and assurances of safety given by the campus police chief and by the university in its promotional brochures and visitor tours.

### An unprecedented review

Just days before our two-part series ran, UC Davis released new Clery statistics. Those numbers included reports of sexual assaults made to sources other than police, a change that campus administrators said was voluntary.

In response to our series, the UC's Office of the President announced that it would conduct an internal review of campus reporting procedures. UC Davis launched an aggressive public information campaign denouncing our stories. The campus sent *The Bee* a nine-page

letter of complaint. In the interest of fairness, *The Bee's* top editors and its legal counsel reviewed the concerns and, after doing so, informed the university the paper stood by our story.

Then, the U.S. Department of Education announced it would audit the reporting practices at all UC campuses as well as the 23 California State University schools – an "unprecedented" review, according to the federal agency. That probe is under way.

In October, UC Davis police officers and employees took a vote of no confidence against their chief, saying the force was "grossly mismanaged" and citing a practice of under-reporting crime on campus as well as at the UC Davis Medical Center. The officers and employees said they supported our series, and called for the chief's removal, as well as an audit of the department. The campus launched an internal investigation into those allegations, which also continues.

*Terri Hardy joined The Sacramento Bee in February 2000. She is a senior writer covering higher education with an emphasis on in-depth investigations. Matthew Barrows began working at The Bee in June 1999. He covered general assignment stories before moving to the transportation beat in the fall.*

## CRIME BY THE NUMBERS

"Understanding Crime Statistics: A Reporter's Guide" takes reporters step-by-step through analyzing crime data. It's the third volume in IRE's beat book series and is available via the Web ([www.ire.org/store/books/crime.html](http://www.ire.org/store/books/crime.html)) or by phone (573-882-3364). The URL above also provides a companion Web site to the book with links to more resources.

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## Artful *Late* Dodgers *of v*

Seeing clearly in the often-murky world of high-stakes art deals

*By Mike McGraw and of The Kansas City Star*

*to be fakes by some of the of Art experts who had banker R. Crosby Kempe place. Soon after the w City Star set out to deter paintings – with a proble one – made their way fro where O’Keeffe once l well-known Santa Fe National Gallery of Art the centerpiece of Ken contemporary art, which*

*Centuries of art and i shown that the art worl for deception and faker debacle turned out to be newspaper found a mod authentication can be where vanity often ex and where salesmansh outweighs careful scho*

## Bankrolling *When Minnesota*

*Art* *nonprofit arts and cul-*

**IRS information reveals stiff competition for funds** *legislature in 2000 seeking \$83.5 million for new and improved buildings, the St. Paul Pioneer Press*

*By Casey Selix and Janet Roberts of the St. Paul Pioneer Press* *was ready to add some context*

*to the requests. We had spent several months studying the money behind arts and culture in the Twin Cities.*

*Continued on page 20*

GUIDE TO  
NONPROFITS AND 990S

An upcoming volume in the IRE Beat Book Series will focus on understanding the world of nonprofits. Author Sarah Wright will pay special attention to using the IRS Form 990. Check the IRE Web site ([www.ire.org](http://www.ire.org)) for publication and shipping status.

in 1999, \$5 million worth watercolors, celebrated as the work of Georgia O'Keeffe, became worthless overnight.

Called the Canyon Suite watercolors, they were deemed

the same National Gallery encouraged Kansas City to buy them in the first unmasking, The Kansas to determine how it was that the dramatic pedigree from day to the Texas Panhandle, lived and painted, to a art dealer, then to the and, finally, to becomeemper's new museum of which opened in 1994.

Intellectual history have and has always been ripe y. And the Canyon Suite e a classic example. The ern-day art world where a haphazard process; ceeds common sense; hip often outpaces and larship.

Continued on page 22

## Forgeries

*In the last decade, Van Amateurs and scholars battle over authenticity of Van Gogh works*

*By Timothy Ryback of Artnews* *Gogh paintings have commanded record prices on the international art market; a portrait of Dr. Gachet sold for \$40 million; a still life with sunflowers was purchased for \$80 million. Both works, the two most expensive artworks ever sold at auction, are now suspected of being fakes.*

*With tens of millions of dollars at stake and professional reputations on the line, the world of Van Gogh scholarship, along with the international art market, have been roiled as never before. The disputes are as bitter as they are complex with allegations of cover-ups, sensationalism, and aspersions about the professionalism of gallery owners and researchers alike.*

*The most extreme charges have come from Benoit Landais, an outsider and enfant terrible, who has succeeded in spawning a cottage industry of enthusiastic amateurs who challenge each other and have drawn leading scholars and major museums into the fray. In response to Landais's allegations of forgeries, the Metropolitan Museum of Art in New York, the VanGogh Museum in Amsterdam, and the Musee D'Orsay in Paris launched a major international exhibition. The world of art will never be the same.*

Continued on page 24



## Bankrolling Art from page 18

So as the requests bounced around the halls of the Legislature, we were ready to ask:

- How much money should state government funnel to arts and cultural institutions that prospered during the economic boom of the 1990s?
- What will arts and culture look like in the next century, given the huge divide that exists between the haves and have-nots in the Twin Cities' arts community?

### Key findings

We based our series on an analysis of Internal Revenue Service 990s for about 150 Twin Cities arts and cultural groups. Among the key findings of the three-day series:

- The requests for sizable public subsidies came while the arts community enjoyed unprecedented prosperity. During the four years of returns we studied, contributions from corporations, foundations and John Q. Public grew by 83 percent; government contributions almost quadrupled; and revenue shot up 67 percent. The top 25 groups saw their investments swell to \$700 million.
- As the Twin Cities' 25 biggest arts and cultural groups rode the economic boom of the 1990s to new heights, the gulf widened between the "haves" and "have-nots." One museum director likened it to "cultural Darwinism," putting us at risk of losing some of the small community theaters, ballet companies and art galleries that help keep our arts and culture diverse.
- A core of well-known institutions now act like profit-making corporations, with an intense focus on the bottom line. Smaller groups find themselves competing for donations against some of the most sophisticated fund-raisers in the business. The top 25 groups spent \$15 million on fund raising in one year, dwarfing the \$1.1 million spent by the other 125 groups.
- Although foundations and government and corporate donors applaud the move to self-sufficiency, critics wonder what happens to creativity as a result. Some foundations are so worried about the smaller groups that they've started programs teaching them survival skills.
- An increasing commercialization of nonprofit culture as arts groups look for more ways to draw crowds. Witness the exhibit "Star Wars: The Magic of Myth," which saw Yoda sharing exhibit space with Monet and Van Gogh last year at the Minneapolis Institute of Arts.

## PREPARING FOR THE 990

By Casey Selix and Janet Roberts

### Heads up! If you decide to launch a 990 project:

- 1) Educate your editors, because such a project is going to take much longer than anyone expects. Our letters requesting 990s went out in June 1999; it took until October to get all of the hard copies of the 990s. This year, it should be significantly easier for reporters and the public to download 990s from Web sites. Groups can get out of mailing 990s if they have their last three complete 990s posted on a Web site.
- 2) Find accountants or academics specializing in nonprofits to sit down with you and explain the 990 and audited financial statements. Some nonprofits will gladly have their financial people explain how they fill out the forms. They might try to discourage you by saying it's a difficult, useless form and they prefer the audits. Your comeback: This is the only document legally accessible to the public. Besides, audits don't list individual salaries.
- 3) Be prepared for angry callers who will question why you want their groups' 990s. You don't have to tell them why. Just remind them it's their obligation to provide them. Refer them to a helpful Web site that explains their legal obligations (Guidestar: The Donor's Guide to the Charitable Universe at [www.guidestar.org](http://www.guidestar.org) and Minnesota Attorney General's Office at [www.ag.state.mn.us/charities/char\\_srch.asp](http://www.ag.state.mn.us/charities/char_srch.asp)).  
If they give you a lot of grief, you might mention that you'll be in touch with the IRS regional office that handles complaints about noncompliance.

- 4) The law says groups can only charge postage plus \$1 for the first page of the 990 and 15 cents for each subsequent page. The group is required to send the 990 within 30 days of receiving payment for copying and postage.
- 5) Check to see if your state has a division overseeing charities and if that division keeps a database of 990s. Even if it does, you want to get hard copies to crosscheck any databases. Data entry can be sloppy.
- 6) Check, double-check, triple-check and have someone else check the numbers from the hard copies against any spreadsheets or tables you create. Check again after you have proofs of graphics.
- 7) Fiscal years vary all over the place for nonprofits, which will cause some headaches as you try to compare year-to-year data. The return may say it's for the 1999 year, but the group's fiscal year may end in 2000.
- 8) Paying for copies of 990s can become a mini-accounting nightmare. Check with your paper's accountant first to see if he or she will write out the checks as needed. We paid about \$600 for the 990s for 150 groups.
- 9) Consider narrowing your study group to a more manageable size.
- 10) The IRS database includes all of the registered nonprofits and is somewhat outdated, we found. Out of the 400 groups we wrote, only 150 either were required to send a 990 or were still in business. Only groups making \$25,000 or more per year are required to file 990s.

### Analyzing the IRS 990

It's a story that could be done in any city. But it's not one to step into lightly. It requires a lot of knowledge about complicated tax laws and how nonprofits are run. And you might have to find a way to get those forms into a database where they can be readily analyzed.

The story was born out of curiosity and a new law. Selix, then a general assignment reporter covering the arts, knew Twin Cities arts groups were raising a lot of money and wanted to know more about how they did business. One of her early stories found that more than 20 arts groups hoped to raise close to \$400 million for new facilities and endowment campaigns. The amount

shocked the fund-raising and donor community, which wondered how that goal could be achieved given the \$1.6 billion that other area nonprofits hoped to raise.

Roberts, the newspaper's computer-assisted-reporting coordinator, knew the Internal Revenue Service was about to make it much easier to get copies of the IRS 990, a public, informational tax return that many nonprofit groups must file annually. The new law, effective in June 1999, meant nonprofits had to mail copies of their last three 990s to anyone who asked.

So we asked. Using the IRS database of tax-defunct organizations, we culled a list of 400 nonprofit arts and cultural groups in the Twin



"He's little and he's green. What's not to like?" says Lisa Sharp of Minneapolis, polishing the glass case that surrounds the production model of Yoda, the Jedi Master, from "The Empire Strikes Back." Sharp is a member of the exhibition crew preparing for the opening of "Star Wars: The Magic of Myth," at the Minneapolis Institute of Art.

Cities. Each received a letter from us – dated the same day the new law went into effect – requesting copies of their last three IRS 990s. We asked for a copy of the 1990 form, too. Even though groups don't have to provide copies from that far back, a number of them did so.

We also were lucky that the Minnesota Attorney General's Office keeps a database containing several categories of the 990s for nonprofits that solicit money in the state. We paid about \$50 for a copy of the database, which had records dating to the early 1990s. We also could check for free the PDFs of 990s at [www.guidestar.org](http://www.guidestar.org) to compare, for example, the salaries of arts executives nationwide.

The 990 returns offer a wealth of information including:

- how much groups receive annually from donations, their program services (such as ticket sales) and gift shop sales;
- how much they spend on fund raising and management; and
- who are the top five highest paid officers, employees and contractors, the latter classification being especially significant in arts and culture. Consider the *half-time* contractor who made nearly \$670,000 annually as music director of the Chicago Symphony Orchestra. Contractor Garrison Keillor, who stars in "A Prairie Home Companion," is not listed by name but as the American Humor Institute (\$368,000).

We also wanted to look at how much groups socked away in various investments and how those funds have grown or declined.

To make a long story short, our "Artful Charity" series was published in early March 2000. By the end of the legislative session that May, the state's proposed arts facilities received about \$25 million – and most of that went to a new studio arts building for the University of Minnesota.

Legislators, readers and even individual artists expressed concern that the big arts and cultural groups had attracted a lot of state bonding dollars when public school arts programs suffered and artists themselves barely made a living. They also didn't like that some groups had built endowments exceeding \$100 million in some cases, but still sought state money to expand.

Our follow-up stories included legislative updates and news on some groups withdrawing project plans and others expanding their plans. Selix also did an in-depth feature on the surprising size, wealth and offerings of the children's arts and cultural community in the Twin Cities area.

*Casey Selix is currently a business writer covering workplace and work/life issues for the St. Paul Pioneer Press. Janet Roberts became the computer-assisted reporting coordinator at the St. Paul Pioneer Press in January 1999. The "Artful Charity" series recently won second place in investigative reporting in the Minnesota Associated Press Association awards.*

## KEY 990 CALCULATIONS

By Casey Selix and Janet Roberts

Since the "Artful Charity" series was published, we have taught and/or advised other journalists across the nation on how to tackle such a project and read the IRS 990s. If you're looking to do a similar project, here's how you conduct a quick credit check of a nonprofit group's financial health by looking at the IRS 990 form:

- The revenue gap. This is the difference between earned revenue and the total expenses of doing business. An arts group usually relies on charitable contributions to reduce the costs of a ticket (Line 2 divided by Line 12).

And, check out whether the group is too heavily dependent on public support (Line 1d divided by Line 12).

- Program services. At least 70 percent of expenses should be spent on programming is a guideline set by the Charities Review Council of Minnesota; 60 percent is suggested by the National Charities Information Bureau (Line 13 divided by Line 17).

No more than 30 percent should be spent on management in general and fund raising is guideline in Minnesota; 40 percent recommended by the National Charities Information Bureau. Remember that these expenses will be higher when a group is either new or in the midst of a capital campaign (Line 14 + Line 15 divided by Line 17).

- Change in unrestricted funds over years (Line 67).
- Change in investments (securities) over years. This is good to check because of stock market growth and decline (Line 55, line 5 and line 21).
- How long can an organization sustain itself on its endowment? Endowment (Line 54) divided by total expenses (Line 17). Remember that groups believe they shouldn't spend more than 5 percent to 6 percent of the principal each year to preserve its value. Donor restrictions also may prevent spending. Also check the growth in endowment or securities.
- Check unrestricted assets. After deducting real estate, how much of that pays for one month of operating expenses vs. next two years? Some watchdog groups say that having more than two years' worth of expenses in unrestricted assets means the group isn't spending enough on its program or mission. Arts groups would disagree (Line 67 divided by total expenses line 17).

Keep in mind that these formulas can be applied to most types of nonprofits, although hospitals and HMOs are the exception.

# Artful Dodgers

from page 19

And, while recent advances in technology can help detect fakes, those same advances can help in the creation of ever-more realistic looking fakes, and in efforts to cover up telltale signs of fakery.

## Authenticating O’Keeffe

Santa Fe art dealer Gerald Peters bought 29 watercolors in 1988, agreeing to pay about \$1 million to an Amarillo woman, the granddaughter of an old friend of O’Keeffe’s. One caveat, stated in their contract, was that Juan Hamilton, a friend of Peters, and O’Keeffe’s companion and business manager late in her life, authenticate them.

Peters said he gave Hamilton a \$10,000 Native American pot in return for the authentication, which was done verbally.

Previously undocumented works by an artist (there was no record of the so-called Canyon Suite works ever having been exhibited, and there was no mention of the works in O’Keeffe’s records) always set off alarms among the careful.

For the next five years, Peters said he sought and received the blessings of the “entire O’Keeffe community.” The more we looked, however, the more it appeared those blessings were less than universal. One key O’Keeffe expert confessed that he believed the works were genuine because he’d been told that Hamilton had authenticated them.

In November 1990, Peters deposited the paintings at the National Gallery of Art, a publicly funded cousin of the Smithsonian Institution.

Being on loan there for two years helped buttress their authenticity, and gallery officials’ effusive letters to Kemper didn’t hurt either. Prompted by endorsements Peters provided from O’Keeffe experts, Kemper eventually paid \$5 million in cash and property for 24 of the watercolors. Peters donated four more to Kemper’s museum.

Naturally, reporters started seeking out the experts who had supposedly endorsed the paintings. What they found was that Hamilton, who declined to be interviewed, had told others that he, in fact, had questions about the paintings’ authenticity.

Some experts who had reportedly praised the paintings, either said that they never saw them, had questioned them – or didn’t think much of them, even if they were real.

Because of breaking news stories about the debacle, fears of legal liability and embarrassment, many of the experts and others, at least initially,

shunned interviews. But reporters kept gathering evidence and going back to many of the sources, asking them to plug holes left by the incomplete paperwork.

Eventually, many of them talked. And the more evidence that was gathered and the more persons interviewed, the more willing Peters was to expand on the limited statements he had made early on. But Peters never wavered from his stance that he never had a hint the watercolors weren’t “right.”

## Building a profile

In addition to human sources, *The Star* filed FOI requests with the National Gallery of Art for documents relating to Peters’ loan of the paintings to the gallery. But NGA officials cited a federal court case they say held that they were not subject to the Freedom of Information Act, despite getting federal funding.

Eventually, NGA officials released some of the documents “in the spirit” of open records. Those documents showed, for example, that the NGA insured the paintings for \$9 million when Peters first shipped them there. That number was reduced to \$7.6 million sometime later. Peters provided both of those numbers to the National Gallery of Art.

In addition, reporters found that the conservator, Keiko Keyes, who cleaned and repaired many of the paintings for Peters, had died. Still, her papers had been deposited at the Winterthur Museum in Delaware. A trip there to review the documents, including before and after slides of the watercolors, confirmed that Peters had originally purchased 29 watercolors, yet only sold 28 of them to Kemper.

After the conservator found a watermark on one of the paintings that was inconsistent with the assumed age of the other works, Peters separated it from the group. Peters acknowledges he never told Kemper of the 29th, and had failed to reveal other information to Kemper. But he insisted he had no inkling the paintings were anything but genuine O’Keeffes.

In an effort to track Peters’ activities, reporters also checked Uniform Commercial Code filings from Peters and other parties in several states. Because art dealers often collateralize their art inventory and use it for loans to expand their business, the documents helped reporters track the

bulk of Peters’ art inventory over time.

Combining what those records revealed with lawsuits and other records allowed us to build a profile of Peters’ activities, including other art deals that went awry.

Other significant sources included art auction records (some of which can be found online), catalogues and other reference works at the local art museum library and far-flung archives – from Yale University’s Beinecke Library, where O’Keeffe’s correspondence resides, to the library and art museum at West Texas State A&M University in Canyon, Texas.

One extremely important source was the two-volume “Georgia O’Keeffe: Catalogue Raisonné” – sponsored in part by the same National Gallery of Art that had urged Kemper to buy the paintings in the first place. The publication in late 1999 of the huge reference guide to the artist’s work set off the art world debacle when it rejected Kemper’s group of watercolors from its compilation of some 2,000 genuine works.

Compiled by scholar Barbara Buhler Lynes over nearly seven years, the catalogue provided an opportunity for reporters to study closely the details of O’Keeffe’s early watercolors and compare them to reproductions of the rejected works. A bountiful reservoir of fine print, it also provided useful context and new trails in O’Keeffe research.

The reporters’ research into catalogues raisonnés led to several uncomfortable realizations about the art world: The great cost and time associated with compiling a definitive reference work about an artist mean that very few such projects get completed. And those catalogues that do exist often seem to prompt questions of reliability, self-interest or other subjective problems.

What is the role of scholars in the marketplace for art? Can scholars be truly independent? How

CONTINUED ON PAGE 25 >

Jennifer Lapolla-Sanchez | The Kansas City Star



A couple visiting from out of town lunch under the Georgia O’Keeffe display at the Canyon, Texas, Dairy Queen. The faded prints are the only display of the artist in town.

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# Forgeries

from page 19

Two years ago, I set out to investigate the several high-profile cases of alleged Van Gogh fakes. I intended to provide a sober, outsider's assessment to an extremely heated controversy, and, I vaguely hoped, to maybe answer a very simple question: were these works authentic or fake? I spoke with virtually every leading Van Gogh scholar in the world, visited most major collections of Van Gogh's works in Europe, interviewed experts on the technical as well as stylistic considerations, and even viewed the physical equipment with which Van Gogh painted, including his canvas stretcher which left tell-tale marks in the back of his canvases, the art-historical equivalent of fingerprints.

## A chaotic state

After more than six months of research, which took me to The Netherlands, France and the United States, I determined not only that the question of authenticity is a veritable sphinx's riddle of

contradictory historical fact and physical evidence that renders any clear determination virtually impossible, but, more unsettling still, beyond the several high-profile paintings, there are probably dozens and possibly even hundreds of Van Gogh fakes hanging in public and private collections around the world. One of the world's most respected Van Gogh scholars pointed out to me that a careful accounting reveals that there are as many as 80 paintings ascribed to Van Gogh from his stay in Auvers-sur-Oise where he spent the last two months of his life; that would mean producing more than one major canvas every day of every week for two solid months.

What struck me most was the relative chaotic state of provenance research on the Van Gogh oeuvre. Although the painter has been dead for 110 years, and certainly stands as the most valued artist – both in artistic and financial terms – of the 19th century, there still is not a definitive catalog of his works, and those that do exist readily admit to their deficiencies. When the first catalog raisonné appeared in the late 1930s, it had included so many fakes and misidentifications that the author was forced to issue a second volume just listing all the known fakes. The book was more than 200 pages long.

One of the major challenges in researching this story was to win the trust of the serious scholars in the field. There has been so much high-profile and sensationalistic controversy surrounding many of these works, and so many journalists soliciting sound bites from serious scholars – or subsequently misquoting or misrepresenting their positions – that it often required repeated attempts to secure an interview. In some cases, I was required to prove my knowledge of the field by responding to rather pointed questioning, and providing answers that demonstrated my knowledge of Van Gogh's work before an interview would be granted. In other cases, I was forced to rely on the recommendations of experts whose trust I had already won. In one case, which involved a pending, multi-million dollar lawsuit, I communicated via fax in order to have every word I intended to quote in writing.

## Compelling arguments

Another major challenge in writing this piece was to determine which opinions to include and how to interpret or comment on them. Opinions are so divided on some works, and the arguments on opposing sides so complex, that I needed to review all relevant arguments with an open but critical mind, and attempt to determine which positions seemed most reasonable.

Generally, the arguments on both sides were so

compelling that I simply let the various individuals present their expert opinions. There was also the difficulty of determining which Van Gogh "experts" were to be taken seriously.

There has emerged a veritable cottage industry of Van Gogh research among amateurs with little or no knowledge of art history. One of these men has been derided as a publicity hound, and yet his opinions on some VanGogh fakes have compelled some of the major museums in the world to hold exhibitions in an attempt to counter his arguments. Another so-called "amateur" has created a Van Gogh Web site that is so comprehensive that it has been publicly endorsed by the Van Gogh Museum in Amsterdam.

Van Gogh is in good part to blame for much of the confusion and controversy surrounding his work. On the one hand, his bohemian lifestyle has made it difficult to account for all the works he painted, especially during his Paris years; on the other hand, his extensive correspondence to his brother Theo – sometimes two or three letters each week in which he provides detailed description of paintings, drawings and even sketches – provides a unique window into the life and work of this solitary painter. The problems arise when there are gaps or contradictions between what he says in his letters and what the physical evidence of his oeuvre suggests.

In one letter, Van Gogh mentions painting one type of tree while the painting shows a different type; some scholars argue that Van Gogh misidentified the trees in his letter; others claim the letter refers to a different painting. Adding further confusion to the situation, there were fellow artists who may have copied Van Gogh paintings or emulated his style, and some of these works may have been mistakenly included with authentic works immediately after his death. Further, Van Gogh himself occasionally copied others' works, or worked in diverse styles, making it difficult to tell which are artists' copies of Van Gogh originals, or which are Van Gogh copies of other artists' originals. Van Gogh also produced a lot of mediocre work, especially in Paris, making it virtually impossible to determine for certain whether some works really are by his hand.

The \$82 million dollar portrait of Dr. Gachet, the most expensive painting ever bought at auction, underscores the complexities of determining authenticity. In a letter to his brother, Van Gogh mentions having painted a portrait of Paul Gachet, the French physician to whom Van Gogh was entrusted in the two months before his suicide. There is no mention of a second version of the portrait, and the existence of this painting was

## Web Resources

### American Association of Museums

[www.aam-us.org/index.htm](http://www.aam-us.org/index.htm)

Information on accreditation, guidelines on exhibiting borrowed objects, articles on issues facing the museum community.

### International Council of Museums

<http://palimpsest.stanford.edu/icom/>

Includes information on the illegal smuggling and trade of cultural artifacts, featuring a photographic listing of high-profile missing/stolen African artifacts.

### Interpol Stolen Works of Art Page

[www.interpol.com/Public/WorkOfArt/Default.asp](http://www.interpol.com/Public/WorkOfArt/Default.asp)

Information on international conventions and laws regarding stolen art, and links to a database of recently stolen art.

### Museum Security Network

[www.museum-security.org](http://www.museum-security.org)

A wealth of information (including articles and databases) on the brokering, sale, insurance, fraud, and thefts associated with fine art and cultural artifacts.

### Artbusiness.com

[www.artbusiness.com](http://www.artbusiness.com)

Contains information on a number of art-related subjects, most notably the risk of fraud in art and artifact cyber-auctions and professional recommendations on how to overcome it.



completely unknown until the 1950s when Paul Gachet Jr., a reclusive eccentric, made its existence public. Although Van Gogh makes no mention a second version of the portrait, it is known that he often made copies of his portraits as a gift to individuals who sat for him. The problem with the Gachet portrait is that both Paul Gachet and Paul Gachet Jr. were artists themselves, and suspected of making copies of other works. The controversy surrounding the authenticity of the painting ranges from technical analyses of the painting itself to personal judgments about the integrity of father and son.

The Van Gogh still life with 14 sunflowers, purchased for \$40 million, presents similar difficulties. In this case, once again, the number of sunflower still lifes known to exist does not correspond to the number of paintings mentioned in Van Gogh's letters. Further, the earliest provenance of this particular painting can be traced to the restoration shop of Claude-Emile Schuffenegger, a reputed forger living in Paris, who did restoration work on a similar Van Gogh sunflower known to have been authentic. Once again the debates about authenticity involve close readings of Van Gogh letters, careful scrutiny of the style and composition – though the current owners refuse to subject the original to technical analysis – to the character of Schuffenegger himself.

### Intense controversy

There is no resolution in sight for these controversies, and in all likelihood they will increase as “amateurs” and scholars continue to battle one another, and as more potential revelations about fake Van Goghs emerge. There remains room for much more good scholarship, and an equal amount of good journalism. One curator at a major Van Gogh collection estimates that it will require another 20 years before one would have a complete and thorough record of the Van Gogh oeuvre. In explaining the intensity of the controversies surrounding alleged Van Gogh fakes, the curator emphasized the absolute values that reign in the Van Gogh art market.

“The painting is either worth a lot of money or worth nothing at all,” he told me. “If it sells for 125 million guilders and it turns out to be a fake, you have a problem. Or at least someone has a problem.”

*Timothy W. Ryback is director of the Salzburg Seminar. He has written on European culture and politics for numerous publications, including ARTnews, The Atlantic, and The New Yorker, and is author of “The Last Survivor: Legacies of Dachau,” selected as a New York Times notable book in 2000.*

## Artful dodgers

CONTINUED FROM PAGE 22

accurate or complete can catalogues raisonnées ever be?

### Behind the art

*The Star's* research led to other well-meaning but hapless art collectors who had been burned – rightly or wrongly – by a scholar's judgment.

Reporting on events that are a decade old or more presented the usual problems of faulty or selective memories. Piecing together facts out of such murkiness is always a challenge, especially in the absence of official documents. Not to mention the absence of the artist, who might have been able to straighten things out.

Authentication problems, however, are not limited to dead artists, since living ones have been known to create their own deceptions.

Commercial art galleries are for-profit businesses. Whether they deal in unique objects or reproductions they are subject to the same rules of business as any other retail operation, especially laws relating to misrepresentation and fraud. Behind the works on the wall can be many intricate and fascinating tales of provenance, business and cultural history.

The nation's art museums like to think they operate above the messiness of the art market. But they don't really. And they are filled with objects of questionable origin and things that aren't what they're purported to be. Recent stories about fakes at the Getty Museum in Los Angeles and the Metropolitan Museum in New York are par for the course.

Getting to some of those stories often means getting beyond veils of arrogance or walls of mandarin silence. The more you know going into it, the more it may help you find sources who will trust you with what they know.

In many communities, art museums and the upper reaches of the commercial art business are where the rich and powerful congregate. So it also helps to know that your newspaper supports your effort to uncover what goes on there.

*Mike McGraw, a special projects reporter and reporting coach for The Kansas City Star, joined the newspaper in 1989. He was a lead reporter on 1991 series that won the Pulitzer Prize for National Reporting. Steve Paul is a senior writer and editor in features at The Star. A longtime editor there, he formerly served as deputy features editor/culture and as arts editor and book review editor. Their two-part series can be read at [www.kcstar.com/projects/canyonsuite](http://www.kcstar.com/projects/canyonsuite).*

## FROM THE RESOURCE CENTER

There are many art and museum stories and projects archived in the IRE Resource Center, many focusing on how art and antiquities were plundered by the Nazis during the Holocaust. Here are a few notable stories available for review:

- For almost a decade, Philadelphia lawyer Richard Glanton held sway over one of the work's great collections of post-impressionist art. In the wake of his ouster, Glanton was locked in a bitter feud with his enemies and faced difficult questions about his stewardship. By John Anderson, *The American Lawyer*, 1988, #14920.
  - ABC News set out to unravel the mystery of how tens of thousands of precious artworks stolen during World War II by the Nazis from Jewish families disappeared from Hitler's secret stash in Paris only to resurface decades later in prominent museums and galleries around the world. By Brian Ross, Brenda Breslayer, Simon Surowicz, David Rummel, Jill Rackmill, 1998, #15347.
  - The Boston Globe's series identified a network of dealers who dealt in stolen artworks from the Holocaust, pinpointing suspect paintings hanging in major American museums, and disclosing widespread negligence within the art world about the origin of works of art that routinely changed hands for millions of dollars without any inquiry into the ownership chain of the works. By Walter Robinson, John Yemma, Anne Kornblut, Maureen Goggin, 1998, #15133.
  - The News and Observer in Raleigh investigated a North Carolina Museum of Art painting that was originally stolen from two Austrian sisters by the Nazis during World War II. By James Rosen and Tom Hamburger, 1999, #15954.
  - CBS News 60 Minutes examined the legal and historical background and implications of a lawsuit filed against a private art collector who unknowingly purchased a Degas pastel that had been stolen by the Nazis during World War II. By Morley Safer and Steven Reiner, 1997, #14511.
  - ARTnews investigated how Russian art has come to the West illegally for the past 70 years while the Soviet Union was isolated during the Cold War. Forgers, smugglers, and corrupt officials controlled the traffic and made huge profits from it, while collectors, dealers and museums in the West were duped. 1996, #13707.
  - The San Diego Union-Tribune examined illegitimate business expenditures of the two top administrators of the San Diego Museum of Art, a nonprofit public institution on public land and dependent on public support. 1995, #12482.
- To order copies of these stories or others, call the IRE Resource Center at 573-882-3364.

# FATALITIES LEAD NEWSPAPER TO STUDY STRETCH OF INTERSTATE

By TONY MANOLATOS

FLORIDA TODAY

Fatal-crash stories along Interstate 95 were almost becoming routine. During a six-month period last year, 12 people were killed in 11 separate accidents on Brevard County's 73-mile stretch of the interstate.

One New York family, who lost their parents in a March 2000 crash, wrote *Florida Today* and pleaded with reporters and editors to take

the coverage beyond spot news stories. They wanted to know the reasons why their parents and many others were dying on I-95. They wanted the newspaper to illustrate the human toll.

We, too, saw the potential of the story. But first we had to

determine just how dangerous the interstate – one of two main arteries in Florida – really is.

A team of reporters and editors began culling and analyzing data from nearly 30,000 crashes over five years along Florida's 382 miles of I-95. In an initial 10-page report on Dec. 3, we delivered the news that the number of people killed on the Florida highway had doubled over five years.

The data were startling enough, but the process also was revealing and newsworthy. We learned that money was the biggest culprit impeding enhancements to the road. But we also learned that while state transportation officials collect crash data, an aging computer system does not allow those officials to thoroughly analyze the information to identify the causes of crashes.

## Not enough troopers

In "I-95, More Dangerous Than Ever" and the dozens of stories, editorials, reader letters and a public forum that followed, enough urgency was raised to compel state and local officials to take action. It was impossible to ignore the findings of the report, including:

- In 1996, there was a sudden and dramatic increase in the number of fatal crashes on I-95. That was the year the speed limit was raised to 70 mph from 65 mph.
- The death rate per I-95 mile driven in Brevard County, home to *Florida Today*, is more than twice the national average for interstate highways.
- The number of Florida Highway Patrol troopers working the interstate has not kept pace with the increased traffic load. In fact, often there are no troopers available to patrol I-95 between 8 p.m. and 4 a.m., when the fatality rate is highest.
- Long sections of the highway have not been improved or expanded since the highway began opening 50 years ago. No substantial road improvements or expansions were made in the five-year span studied, even though traffic increased 17 percent.
- Almost a third of the fatal crashes in Brevard County occur when vehicles veer out of control across grass medians and into oncoming traffic. Those "crossovers" lead to more multiple death crashes than any other type of accident. They could be prevented by erecting median barriers in high accident locations – a fairly simple, low-cost solution.

One thing the project did not do was compare I-95 to another road. We did gather fatality rates for U.S. interstates and Florida interstates and we compared those to I-95. But we did not, for example, look specifically at Interstate 75 in Florida.

We chose to compare I-95 to itself because it is Florida's eastern gateway and the most heavily traveled road in the state. However, taking the time to compare it to I-75, Florida's other major highway, would have added depth and perspective to our report.

Gathering data for I-95 required working with four state transportation districts and compiling data from each district into one database. Because each district is independent of the other, no one at the state level can effortlessly answer basic questions – such as the number of people killed in any given year – about I-95, I-75 or any other

Florida Today



Dick Lauginger, a public service assistant with St. Johns County in Florida, sets up one of two police vehicles parked on I-95 with dummies at the wheel. The practice is used to help slow traffic.

road that runs through multiple transportation districts.

State transportation officials said a new central computer system, expected to be in place by July, will give them a better and quicker understanding of state-maintained roads.

While the National Highway Traffic Safety Administration tracks all fatal wrecks, the agency essentially relies on police reports for the information. Those reports often list multiple names of one road, and NHTSA's database does not take that into account. In other words, you would have to know every possible name that law enforcement might use for a road in order to properly crunch the numbers.

## Lawmakers react

We augmented our print coverage of I-95 by using our Web site ([www.floridatoday.com](http://www.floridatoday.com)) for continuing coverage, links to relevant sites and ongoing coping information. At a January readers' forum, local residents shared questions and suggestions about how to improve safety on the interstate with a panel of law enforcement and transportation officials.

Associated Press versions of our report appeared in newspapers statewide. And other Florida newspapers began calling for safety improvements on I-95 in their areas, based on the findings of our report.

In addition, we teamed with Channel 6, an Orlando-based television station, to broaden

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# CRASHING FOR CASH

## Underworld of scams aimed at milking insurance

BY FRED SCHULTE  
AND JENNI BERGAL

THE SOUTH FLORIDA SUN-SENTINEL

**J**ust about everybody in the auto insurance business in Florida has a story about fraud, from rings that stage fake accidents to crash care clinics that bill huge sums for needless treatments.

Unfortunately, most insurance companies are wary of talking to the media. They don't want to discuss fraud schemes for fear of drawing a slander suit from those involved, or out of concern that doing so would reveal how vulnerable they are to cheaters. But a number of public records exist to help reporters get an inside look at this multi-billion dollar criminal enterprise that investigators say operates in some form in nearly every state.

In "Crashing For Cash," a four-part series published in December, we exposed an underworld of traffic accident stagers, corrupt chiropractors and pain clinic owners, ambulance-chasing lawyers, patient solicitors and medical testing brokers who band together to cheat insurance companies and consumers.

Under Florida law, a doctor or clinic can bill up to \$10,000 for every crash patient treated. Lawyers can tap insurers for thousands of dollars more in personal injury settlements. This fast

money drives the industry. Our seven-month investigation identified more than 4,000 Florida residents who played roles in at least 1,400 suspicious auto accidents statewide during the 1990s.

Hundreds of them were chiropractors or lay owners of crash clinics who had been reported to state fraud investigators for padding bills or running needless medical tests on accident victims who weren't injured.

Others belonged to crash rings, whose members often were related by blood, ethnicity or neighborhood ties. We entered each name we came across into one of several Microsoft Access databases that allowed us to keep a running total of crash-for-cash participants.

Here are some of the primary sources we used:

- State Department of Insurance files. To our surprise, the Florida Division of Insurance Fraud allowed us to visit five of its offices around the state, where we inspected more than 500 closed cases, dating to 1995. Most had been closed without an arrest.

Patterns quickly emerged.

Dozens of chiropractors and clinics allegedly were paying "runners" to recruit patients, sometimes offering them \$300 to \$600 apiece, for instance.

In other cases, solicitors obtained the names of people in minor accidents by purchasing crash reports in bulk at local police stations and calling them at home with promises that they could make thousands of dollars by claiming injuries in a lawsuit. In addition, some people had obtained driver's licenses under several aliases. We decided to check their driving backgrounds.

- Department of Highway Safety & Motor Vehicles. We accessed driving histories and accident records for people investigated for insurance fraud, accident staging or possessing a phony driver's license, the criminal charge that often gets filed against accident stagers.

We entered this information into a database, which included the name of the driver and

passengers in the accident, the speed at impact, damage amount and age of the other driver.

The data showed us that the same drivers were involved in questionable crashes over and over. Some were members of the same family. Some targeted elderly drivers as victims.

One man with six aliases was in three dozen crashes. Eight people living in Palm Beach County wracked up 139 crashes. One family-based ring showed up in 68 suspicious crashes.

We used standard industry criteria for determining whether a crash was suspicious. For instance, often the accident was little more than a fender bender and the estimated damage to the vehicles was under \$500. Yet the accident stager and his passengers would immediately go to a chiropractor's office and begin a series of expensive treatments.

Many other crashes in our sample occurred in parking lots at about five miles per hour.

- Civil court files. Increasingly, auto insurers are refusing to pay bills they believe are inflated or bogus and are pressing their cases in court. Records of these civil lawsuits, especially depositions of doctors and clinic owners, are invaluable, both for locating patients and establishing questionable billing practices and medical testing abuses.

Other court cases can be helpful as well. Insurers in some states, for instance, have filed class action suits against chiropractors and clinics, claiming they have deliberately inflated costs or billed for services that weren't rendered. Some of the biggest cases have been filed in Chicago and New Jersey.

- Disciplinary and criminal case files. We obtained a list of all Florida Board of Chiropractic Medicine disciplinary cases in the last five years and requested hard copies of cases that involved insurance fraud or patient solicitation, including penalties imposed.

We combined those named in disciplinary cases with other chiropractors, doctors and clinics whose names surfaced in state insurance fraud complaints, arrest records or civil court cases for suspected accident fraud.

This list grew to more than 60 medical clinics in Miami-Dade County alone and more than 400 chiropractors, many of them reported to the state repeatedly for accident fraud.

We also examined the applications of chiropractors with criminal histories and found that the board had granted licenses to dozens of chiropractors from other states with criminal convictions including insurance fraud

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### Tipsheets available

Tipsheets to aid in investigating insurance scams are available at the IRE Resource Center:

- "Doctors, Lawyers, Car Crashes and You," Arnold Diaz, Glenn Ruppel and Janet Klein, ABC News 20/20, #14585. The story investigates automobile insurance fraud in both small town and large cities around the country.
- "No Exit," Patrick Weiland, John Larson, Steve Snug, Leslie Bergman, Patricia Chang and Marianne O'Donnell, NBC News Dateline, #16392. This investigation focuses on a form of auto insurance fraud, called "swoop and squat."

To order a tipsheet, call 573-882-3364.

# CAUGHT OFF GUARD

Probe forces Navy to tighten security

BY JIM HOFFER

WABC – NEW YORK

**O**n the morning terrorists in a small boat filled with explosives killed 17 sailors on the *USS Cole* in Yemen, photographer Bryan White and I were in a tiny rental boat in the *Cole's* home port of Norfolk, Va., floating next to destroyers, aircraft carriers, and submarines. How did we get there? Call it intuition or gut instinct: those rare times when you know you're onto something big even though in the early stages, the investigation's outcome is unclear.

That's how the investigative team at WABC-TV in New York felt about our probe into Navy base security, which began nearly two months before suicide bombers made it explosively clear how vulnerable U.S. military ships were. We believed, based on preliminary reconnaissance and past experience, that

there was something inherently wrong with the lax approach the Navy took toward protecting the world's most sophisticated armada. This belief became an obsession that drove us long after prudence suggested we abandon ship.

Five years earlier, as a reporter in Connecticut, I did an investigation on land-based security lapses at the submarine base in Groton. During that investigation, sources kept telling me to check the base's waterside security, which I would find wide open. I decided this past summer to dust it off and test whether anyone was guarding the Navy's back door.

## Unguarded symbols

The investigation began in August as White and I launched our rented fishing boat

equipped with binoculars and a home video camera near the mouth of Connecticut's Thames River. It took nearly two hours to navigate the rickety rental boat three miles through the rough waters of Long Island Sound and up the river to the Navy base.

Although anticipated, the complete lack of any real security as we floated within feet of the top-secret, billion-dollar submarines struck us as remarkable. In an age of Oklahoma City and World Trade Tower bombings, how could these very symbols of military might be so unguarded? We lingered near the nuclear-powered subs unchallenged for more than 30 minutes, taking video and

still photographs. At any moment, we expected guards or a patrol boat to approach us and arrest us for trespassing. It never happened.

When we returned to shore, we drove to the front gate of the base to inquire whether we could get a glimpse of the submarines. Here, we discovered a completely different security posture. An armed guard told us only authorized, escorted personnel were allowed on the base. He then told us to leave. What some sources had told me years earlier still remained glaringly true: The Navy kept a close watch over its base's front door but left its back door unlocked and unguarded. So easy was it to get right next to these billion-dollar submarines that we wondered if it was a fluke – whether we had just gotten lucky. We decided in the interest of fairness and peace of mind we had to test security at Groton one more time. The result? We got even closer to the subs, and again, security never challenged us.

Now we had to decide whether to expand the investigation to determine if lax security at the Groton Submarine Base was isolated or indicative of a systemic problem at other naval installations. We talked to a security and terrorism expert and showed him our video. He assured us we were on the right track and we knew then we had to convince management to support a broadening of our security probe. To their credit – while not entirely convinced of the investigation's merits since no terrorist had ever struck a domestic navy base – they recognized our commitment and gave us the go ahead to check out two more facilities: the Naval Weapons Station Earle in New Jersey and Norfolk Naval Base in Virginia.

White and I headed out again in a rented fishing boat, this time to test how close we could get to munitions ships docked at a mile-long pier that extended out into Sandy Hook Bay. Several times we got within feet of the *USS Detroit*, which when fully loaded carries nine million gallons of fuel and 3,200 tons of ordnance. As a former Navy admiral told us, "Imagine the explosive damage should one of these ships fall prey to a terrorist attack." Most alarming to us was the proximity of this munitions pier to New York City. A few days later, we went back to Earle for a second security check. Again, we successfully got our small fiberglass boat right up to a munitions ship. Still, there existed this nagging question: Although our security checks proved we could get shockingly close to some of the military's most sophisticated ships, could boats as small as the ones we rented

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Photos: WABC-NY



Military officials admitted that WABC-New York reporter Jim Hoffer's ability to get close enough to touch a nuclear-powered ship was embarrassing and pointed to lax security.



# NSA REVISITED

Author unearths new material on intelligence-gathering agency

BY STEVE WEINBERG  
OF *THE IRE JOURNAL*

In the new U.S. Government Manual, the official handbook of the federal bureaucracy, there are less than 100 words about the National Security Agency. Created as a top-secret entity in 1952, the NSA is headquartered at Fort Meade, Md. For many years, not even the U.S. Government Manual carried a listing. The relative few who knew about it – outside of its tens of thousands of employees – joked about the acronym standing for No Such Agency, or Never Say Anything.

The description in the U.S. Government Manual says “the agency employs the nation’s premier codemakers and codebreakers. It ensures an informed, alert and secure environment for U.S. warfighters and policymakers. The cryptologic resources ... provide U.S. policymakers with intelligence information derived from America’s adversaries while protecting U.S. signals and information systems from exploitation by those same adversaries.”

In 1982, the NSA went from little-known to well-known within weeks, thanks to a previously unpublished journalist who had spent years of his life researching a book. That person – James Bamford – held a law degree and was employed as an insurance investigator. Bamford had no guarantee anybody would publish his book, no guarantee he could avoid its suppression on national security grounds. Living near Boston at the time, Bamford took his book manuscript, unannounced, to the publishing house of Houghton Mifflin. Beating enormous odds, Bamford found an interested editor and walked out with a contract.

The rest, as the saying goes, is history. That 1982 book, “The Puzzle Palace: A Report on NSA, America’s Most Secret Agency,” surprisingly but deservedly reached bestseller status. As an experienced investigative journalist myself, I

thought I knew a lot about the craft. Bamford’s book floored me. How had he managed to learn so much when faced with so much resistance? How had he persuaded so many sources to talk with him by name when famous investigative journalists like Bob Woodward insisted many, perhaps most, high-level sources would have to be granted anonymity before opening up?

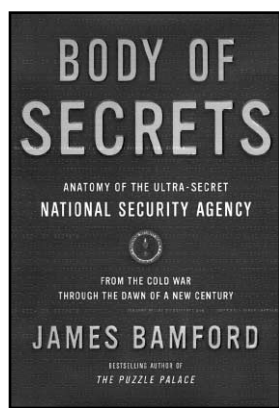
Noted Bamford: “This is probably the largest book ever written on intelligence with the fewest number of unnamed sources. Almost everyone has spoken to me on the record.”

## A brilliant end-run

Two decades ago the agency hierarchy refused to tell Bamford something so straightforward as the number of employees, so he came up with a number – 68,203. Where had he obtained that classified information? From a Freedom of Information Act request to the National Credit Union Administration. Here is the meat of Bamford’s explanation, which is my all-time favorite endnote: “The Tower Federal Credit Union is located at NSA, and its membership is limited to NSA employees and their families. The list of ‘potential’

members indicates the number of actual employees in the agency. The number would include NSA installations but would not include members of the three military cryptologic organizations assigned to military installations or listening posts. In addition to the number of potential members of the credit unions for 1978, the list also included the numbers of both actual and potential members from 1956 to 1978.”

Some of Bamford’s other resources as he performed a brilliant end-run around the censorious agency: the NSA’s internal newsletter, plus documents in collections of personal papers donated to various archives by retired or dead military/government decision makers.



**BODY OF SECRETS:**  
Anatomy of the Ultra-Secret  
National Security Agency  
From the Cold War Through  
the Dawn of a New Century,  
by James Bamford,  
Doubleday, 721 pages, \$29.95

Now, in 2001, Bamford has done it again. “Body of Secrets” is much more than a superficial update of the 1982 book. The new version is 256 pages longer, takes in a broader sweep of history, benefits from limited access to NSA headquarters, and contains revelations not even hinted at in “The Puzzle Palace.”

For example, while researching the new book, Bamford – who until recently was working at ABC’s World News Tonight – came across documents about Operation Northwoods. The top military officials in the United States, sitting as the Joint Chiefs of Staff, spent time planning the operation, the goal of which was to destabilize Fidel Castro’s Cuban government.

According to documents made public by Bamford, the Joint Chiefs of Staff knew invading Cuba openly would be dangerous in the court of public opinion. So the military officials concocted lies about Cuban attacks on innocent U.S. citizens, lies meant to outrage the citizenry and their congressional representatives, so war could be declared on the nearby island nation.

Not every revelation of previously secret missions in this new book is completely convincing. But every one of the revelations, however speculative, is fascinating. Despite the ridiculous, outmoded secretiveness Bamford faced, he has pointed toward what is probably something like the truth by unearthing so much difficult-to-obtain information.

## Potential dangers

Besides providing details of specific operations, Bamford helps readers understand a new paradigm of intelligence collection: “Most people think it’s the CIA, using human spies sneaking across foreign borders, that collects most of this country’s intelligence. That’s not at all how it works. I also want readers to understand the promise and potential dangers of this type of intelligence collecting .... If the agency is not watched closely, if the laws are not followed, the technology exists to allow the kind of eavesdropping on our lives that George Orwell could never have imagined when he wrote about Big Brother in his book ‘1984.’”

Readers interested in how Bamford knows what he says he knows can consult the 81 pages of endnotes he so wisely includes, such as oral histories archived at NSA and other government repositories.

*Steve Weinberg is senior contributing editor to The IRE Journal, a professor at the Missouri School of Journalism and a former executive director of IRE.*

## Coal mining

CONTINUED FROM PAGE 13

they said, removing huge amounts of rock and dirt to uncover coal would be economically impossible. United Mine Workers members protested outside Haden's courthouse. They also blamed me, and picketed outside the *Gazette's* offices.

I continued to follow the story, though. Soon after Haden's ruling, I learned that the DEP had kept a secret list of the valley fills it had approved over the last 25 years. The list was huge, but luckily someone at the agency had typed it into an Excel spreadsheet. The DEP had never analyzed the data. I got a copy of the file, and did so myself. Within a couple of days, the *Gazette* published a Sunday article that showed that DEP had permitted enough fills to bury 750 miles of streams.

I also did a lot of old-fashioned shoe-leather journalism. I read the hundreds of pages of evidence and legal briefs presented to Haden, and reported that the coal industry had greatly exaggerated its claims that the valley fill ruling would end all coal mining.

Late last year, when the 4<sup>th</sup> U.S. Circuit Court of Appeals heard a challenge to Haden's ruling, I published another series of articles to try to explain the tricky legal issues in the case. Among other things, I told our readers how the industry's main legal strategy wasn't to challenge the merits of the ruling, but to attack Haden's jurisdiction over the case. If the industry wins this argument, it could end the rights of all coalfield citizens to seek enforcement of the strip mining law in federal court.

I also continue to follow the efforts of a handful of experts with OSM, EPA and the Fish and Wildlife Service to curb the giant permits that DEP continues to try to approve.

I lost track a long time ago of how many stories we've published about mountaintop removal. And the end seems to be nowhere in sight. It's been a rewarding experience, and a great lesson in all of the things that make a great project – doing your homework, digging deep and exposing wrongdoing, and then following up on the reactions and results.

*Ken Ward Jr. covers the environment for The Charleston Gazette. His mountaintop removal articles received the Scripps Howard Award for Public Service Reporting, the Stokes Award for Energy Reporting, a Southern Journalism Award and a Livingston Award for Young Journalists.*

## Mine safety

CONTINUED FROM PAGE 11

We thought that finding was sufficiently significant to warrant publication of the entire list – after triple-checking it for accuracy. The table consumed approximately 140 column inches.

With the data and some 150 interviews clearly showing patterns of neglect by the board, we complemented the statistical data with stories about individual coal companies and miners.

These stories included:

- A major U.S. coal producer with a terrible safety record to which the mining board paid no heed. A company official was one of the mining board's three industry representatives.
- A coal company consultant convicted of falsifying dozens of tests designed to ensure healthful air-quality levels in underground mines, but allowed by the board to remain in business as a safety trainer.
- A coal company supervisor exonerated by the board in connection with a miner's death, but who later pleaded guilty to federal criminal charges stemming from the same incident. (The court placed him on probation.)
- The case of the electrocuted miner, which was resurrected by the board after our inquiries.

On Jan. 20, one month after the newspaper's stories began to appear, Gov. Patton issued an executive order abolishing the existing mining board and removing the state's commissioner of mines and minerals from the board and from the disciplinary process.

Decreeing that "dramatic action" was necessary to protect miners and to reaffirm the value of "their work and their lives," Patton proposed a new board to include three citizen members and a new executive director to oversee the board. The legislature agreed to a new board, that like the old one has three representatives from labor and three from industry, but only one citizen representative and no executive director. Patton responded with a strong mine-safety advocate as general counsel for the Mines and Minerals Department.

Whether the new system can succeed where the old one failed remains to be seen. That will depend largely on the new appointees and the depth of their commitment to enforcing mine-safety laws as well as punishing those who violate them.

*R.G. Dunlop is a special projects reporter for The Courier-Journal in Louisville, Ky.*

## Highway safety

CONTINUED FROM PAGE 26

exposure to our reports. The station did some field reporting to further humanize the findings, promoted our section the night before publication, and encouraged its viewers to attend the public forum.

Reaction to the coverage has been swift and substantive. Here's what has resulted so far:

- Brevard County legislators pledged that I-95 safety would be their top priority during the 2001 legislative session.
- They backed that pledge by setting a meeting in January with the state transportation secretary to push for median barriers along I-95 in Brevard County.
- After that meeting, the transportation secretary hired a traffic engineering company to analyze Brevard County's 73-mile stretch of I-95. The company is expected to examine 10 years of crash records.
- The Metropolitan Planning Organization, the chief transportation planning agency in Brevard, said it would use our report to build a public awareness campaign to improve safety on Brevard's stretch of I-95.
- In South Florida, Broward County officials initiated a public awareness campaign to alert drivers to the dangers of I-95 in that county – a direct response to the findings in our report. Transportation officials in Broward are continuing to study I-95 crash records in an area the newspaper identified as the stretch with the most fatal wrecks and the most traffic.
- State highway patrol officials are using the newspaper's finding to lobby vigorously for more high visibility enforcement along the entire interstate, including more marked and unmarked cars, increased DUI enforcement and aircraft speed enforcement details.

In a letter to our executive editor, the top official from the state Highway Safety Department applauded *Florida Today* for raising public awareness of the dangers of the heavily traveled, yet lightly patrolled, interstate.

"Florida's population is rapidly approaching 15 million year-round residents, and an additional 43 million tourists visit our state each year," Fred Dickinson said. "With just over 1,700 troopers available to patrol our roadways, there is currently only one trooper for each 8,500 citizens and for every 25,000 visitors."

*Tony Manolatos is an enterprise reporter at Florida Today.*

## Crash for cash

CONTINUED FROM PAGE 27

and cocaine trafficking.

Checking the criminal histories of accident clinic operators, we also found a number of owners with felony convictions, including ex-drug dealers who had migrated to the car crash treatment racket.

In reaction to the series, Florida legislators are expected to take up a number of bills to help fix the system, including one that would regulate auto accident clinics and limit their ownership to medical professionals.

Other proposals include stepping up criminal penalties for insurance fraud and accident staging and cracking down on runners who exploit crash victims on behalf of doctors and lawyers.

Judging from the early reaction among state officials, we're glad we told this story.

*Fred Schulte is the South Florida Sun-Sentinel's investigative editor. Jenni Bergal is a senior writer at the paper.*

## WEB RESOURCES

Here are some Web sites that can be helpful when looking into the auto insurance crash industry:

- Florida Department of Health Physician Profile Information: [www.doh.state.fl.us/IRM00profiling/searchform.asp](http://www.doh.state.fl.us/IRM00profiling/searchform.asp). We used physician profiles to check arrest histories and disciplinary status for chiropractors.
- Federation of Chiropractic Licensing Boards: [www.fclb.org](http://www.fclb.org). This site has links to state chiropractic licensing boards and other statistical information about chiropractors.
- Fraud Defense Network: [www.frauddefense.com](http://www.frauddefense.com). An insurance industry-funded site that offers a daily news bulletin about insurance fraud schemes around the country.
- Florida Bar Association: [www.flabar.org](http://www.flabar.org). This site has press releases about disciplinary actions, but is difficult to negotiate because it lacks an index of disciplined lawyers.

## Disclosure challenges arise in agency files

Two years ago, a reporter for *Newsday* began investigating the business activities of a New York State agency whose director was a top fundraiser for the governor.

Learning that the Empire State Development Corporation (ESDC) had received subpoenas from the Manhattan District Attorney's office and possibly other law enforcement agencies, the reporter followed the procedures set forth in New York's Freedom of Information Law (FOIL) to obtain those subpoenas as "records" contained in the files of an "agency."

From the outset, it looked like a promising method. The purpose of FOIL was to "shed light on government decision-making" and permit the electorate to make informed choices by facilitating exposure of "waste, negligence, and abuse." New York law defined "agency" as any governmental entity performing a governmental or proprietary function for the state. A "record" was any information kept, held, filed, produced or reproduced by, with or for an agency in any physical form whatsoever.

But ESDC objected to *Newsday's* request and presented a novel argument: subpoenas in agency files are "court records" and because the judiciary is not an "agency" subject to FOIL, subpoenas are categorically exempt from disclosure.

### New York's approach

Some states, such as Florida, provide broad access to government records; other states, such as Maryland, have less favorable frameworks. Under New York law – which generally encourages access – documents in the possession of public agencies are presumptively discoverable under FOIL unless the agency can point to a specific statutory exemption. Exemptions from FOIL are supposed to be narrowly construed, with the burden resting on the agency to demonstrate that the requested material indeed qualifies for exemption.

At the time of *Newsday's* request, no New York court had ever construed "agency records" to exclude routine disclosure of

subpoenas contained in agency files, and "blanket exemptions" for particular types of documents were disfavored as "inimical to FOIL's policy of open government." Similarly, the New York Legislature had never enacted a specific exemption for subpoenas. Florida had considered such an exemption, but the bill did not pass.

### Access blocked

When ESDC refused to disclose the subpoenas in its files, *Newsday* sued and won in the trial court. But its victory was short-lived. In May, an intermediate level appellate court held, as a matter of first impression under New York law, that a subpoena in the possession of an agency – although ostensibly only "a process of the courts" rather than a document "issue[d]" by a court, and often never actually kept by or in the possession of a court – is and remains a "court record" exempt from disclosure under FOIL.

Unless successfully appealed, this decision could have the effect of closing the door in New York on *all* FOIL requests to *every* "agency" for *any* subpoenas.

### Current status

In June, *Newsday, Inc.* filed a motion seeking reargument of the court's decision or, in the alternative, permission to appeal the case to New York's highest court. In support of *Newsday's* motion, IRE (joined by The Associated Press, Daily News, L.P., The New York Times Company, and the Reporters Committee for Freedom of the Press) submitted an amici brief that showed how preventing access to subpoenas in agency files would, as a practical matter, make it difficult or impossible to obtain such records in any other way, even as "court records."

IRE's brief pointed out that subpoenas, whether seeking testimony or documents, are typically issued in New York by lawyers, not by judges. And when delivered to recipients in the proper manner, "proof of service" need not be

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DAVID SMALLMAN

*David B. Smallman practices media law in New York. He is First Amendment Counsel to IRE and NICAR, a member of IRE's FOI Committee, and is the Journal's contributing legal editor.*



## Houston column

CONTINUED FROM PAGE 4

In the past year, it has examined campaign contributions, for-profit online higher education, the rise of the private-prison industry, the boom in offshore tax evasion, and the TV advertising of prescription drugs.

### Local-level intensity

On the local level, *The Chicago Reporter* is an independent monthly that does nothing but investigative reporting into issues of race and poverty. Its staff recently investigated drug programs and education challenges for minority children. In the past, it has probed welfare reform, immigration and labor issues. Published by the nonprofit Community Renewal Society, *The Chicago Reporter* in its 30<sup>th</sup> year.

When it was founded it “set on a mission of documenting the city’s – and later the whole metropolitan area’s – struggles with the burning issues of race and poverty.” Now, *The Reporter* analyzes “questions of race and poverty that are much more complicated than the ‘black-and-white’ issues of the early days.”

To increase the depth of its journalism, *The Reporter* makes extensive use of computer-assisted reporting and aggressively seeks city databases and says it carries on “as gumshoes in the computer age.”

At this year’s IRE National Conference, *Reporter* staff members and long-time editor (and former IRE Board member) Laura Washington participated on several panels and told how a small news organization does traditional hard-hitting investigations and investigations that include the effective use of the latest technology.

Internationally, the Philippine Center for Investigative Reporting produces solid work year in and year out. Journalists from the U.S. and other countries should check out that center’s recent book on its investigation into former Philippine President Joseph Estrada’s wealth. The book, “Investigating Estrada: Millions, Mansions and Mistresses,” edited by director Sheila S. Coronel can serve as textbook for those looking into the dealings of powerful public officials in any nation. Unlike many countries in Southeast Asia, Coronel has noted, the Philippines allows routine access to many public records.

The center’s work can be viewed at [www.pcij.org](http://www.pcij.org) for more information.

## Navy security

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ever really pose a threat to these massive steel vessels? Thousands of miles away, two suicide bombers would soon answer that question in a deadly and unmistakable way.

### A chilling coincidence

On October 12, photographer White and I awakened early, left our Norfolk hotel and headed for the boat rental shop. By 8 a.m., we had reached the water side of the world’s largest naval base. Dozens of massive warships sat docked in port, seemingly unprotected by security. We motored among destroyers, nuclear submarines, and aircraft carriers. After about 45 minutes, we decided to wrap up our shooting, but not before leaving with one last shot: me actually touching the *USS Enterprise*. It took several attempts in the wind-driven waves to maneuver our tiny boat close enough to this behemoth nuclear-powered ship for me to touch its side. Besides the danger of crashing our boat against the ship, we also knew if we were caught, arrest was certain, and our investigation would be jeopardized. But it was the one shot we knew would demonstrate the vulnerability of these vessels better than any other video, document or expert’s sound bite. Call it luck, divine intervention, anything but skill, but on the third attempt, I finally got the boat up tight against the *Enterprise*’s hull, allowing me to pat its side.

Just then, our pagers started going off. We wondered why the newsroom would be trying so hard to get in touch with us this early in the morning. As soon as we got back to the dock, I called our producer, Daniela Royes, who in a frantic voice said, “Do you have any idea what just happened? Terrorists in Yemen just blew a hole into the side of a Norfolk-based destroyer.”

It was an indelible moment that made the hair on the back of my neck stand up. The producer wanted to know what we were doing out so early. When I told her we had just touched an aircraft carrier at the Norfolk Base, she could barely respond. Without saying it, we both knew our investigation now took on national importance.

### Ethical decisions

With news of the *Cole* attack breaking worldwide and calling into question naval ship security, we had to decide whether to rush our investigation to air or wait until we had

concluded the interviews and gathered expert analysis of our findings. After some rather tense debate, we decided to hold off on airing the investigation so we could conduct interviews with former high-ranking defense and Navy officers.

We also felt it would appear opportunistic and even insensitive if we were to air our reports while the Navy and families grieved the loss of 17 sailors. This decision not only allowed us to solidify our investigation, but gave the Navy a reasonable amount of time to respond.

During the next few days, we talked to numerous former Naval and Pentagon brass, including admirals, commanders, even a former secretary of the Navy. All of them agreed that our ability to get up next to these military ships showed an appalling lack of security. The problem was they all still had ties to the government, mostly as paid consultants. They refused even to be quoted, let alone do camera interviews. But eventually, we found several highly respected military experts who agreed to assess our video and respond for the record.

Retired Admiral Eugene Carroll said our investigation clearly showed a serious problem that needed immediate attention. He said we demonstrated that “the door is open. Don’t be surprised if someone walks through.” General William Odom, former head of the National Security Agency, said the lax security we exposed was “not only embarrassing, but dangerous.”

### National impact

On October 24, we aired “Caught Off Guard,” a nine-minute report exposing how remarkably easy it is to float up beside the Navy’s top-secret weapons of war. Besides other media picking up the story, it grabbed the attention of Congress as well. New Jersey Rep. Jim Saxton, who chairs a House terrorism committee, met with Navy officials to demand a top-down review of their domestic security practices. And, at Saxton’s request, the General Accounting Office began an independent audit of the Navy’s domestic security protocol.

But the most visible impact of our investigation occurred less than eight weeks after our report initially aired. That’s when the Navy started erecting “security zones” around its ships docked at bases all along the East Coast.

*Jim Hoffer joined WABC-TV in 1998 as an investigative correspondent. Prior to that, he worked at WTNH-TV in New Haven, Conn., where his work garnered eight regional Emmys.*

Doral Chenoweth III | The Columbus Dispatch



Gladstone Elementary principal Debra Archie-Wilkerson directs action on the playground. Gladstone was noted in federal judge Robert Duncan's decision to desegregate the Columbus Public Schools.

# SEPARATE AND UNEQUAL

## End of cross-town busing creates divided schools

BY DOUG HADDIX

THE COLUMBUS DISPATCH

**R**emember Anthony and Artisse. That thought played itself repeatedly in my mind during work on “Dividing Lines,” a four-day series published during June 2000 in *The Columbus Dispatch* that explored the consequences of returning to racially segregated schools. The newspaper’s investigation found that, four years after the end of busing for integration, the Columbus school district has become divided again along several lines: race, income, student achievement, teacher experience and resources.

In the early stage of the investigation, before our team had a clear focus, I tried to look at the project through the eyes of Anthony and Artisse, two African-American students who attend a struggling public elementary school near downtown Columbus. I grew to know the brothers as a volunteer tutor through my church.

Of the roughly 500 students at their school, about 93 percent qualify for free or reduced-price lunches. That’s why it should have come as no surprise in mid-December when Anthony looked up at me with his bright first-grade eyes and told

me what he wanted for Christmas: “I’d really like some fruit.”

As a tutor, I quickly realized just how far behind Anthony, Artisse and their classmates were compared with my own children and most others in suburban Columbus school districts. Just 3 percent of fourth-graders at the brothers’ school passed all parts of the Ohio proficiency test. The overwhelming majority of students – 96 percent – are minorities. The district overall has 60 percent minority enrollment.

*Dispatch* Editor Benjamin Marrison knew nothing of the tutoring program when he asked me to put together a proposal for a project on Columbus Public Schools. His request landed with a thud: “Not a ‘noun project,’” I thought, remembering the phrase in our newsroom for unfocused, all-things-to-all-people projects that typically skate across the surface of an important issue or institution.

Marrison’s instincts, though, were right on target.

With more than 65,000 students, the Columbus district has a major impact in central Ohio. So

its ongoing difficulties – poor test scores, a high dropout rate, financial and policy mismanagement, aging buildings – greatly affect the whole region.

The immediate challenge became one of focus, of transforming a potentially sprawling “noun project” into a news series with a laser focus.

Because I had lived in Columbus for just 16 months, I began reading everything I could find about the district – key stories from our electronic library, state financial audits, a recent independent curriculum audit. I also talked with reporters and editors who have covered Columbus schools over the years.

Just as important, I kept Anthony and Artisse in mind. Whatever we did, we had to keep our focus on the students.

The research showed that Columbus had eliminated cross-town busing four years earlier. A district once described by a federal judge as “the most desegregated school system in the United States” quickly reverted to roughly the same geographic lines of division that the same judge had deemed unconstitutional two decades earlier when he ordered integration.

That’s how Anthony and Artisse found themselves in a school with few white or middle-class students, surrounded by minorities like themselves living in poverty.

The research turned up a Columbus School Board policy enacted during the controversy over whether to end forced busing. In response to fears that neighborhood schools would quickly become separate and unequal, the board had unanimously approved an equity policy.

That pledge became a godsend for the project: “Equity requires that legitimate differences in the educational needs of students be taken into account when distributing educational resources, and that those students with extra educational needs be afforded greater resources.”

From what little I knew of their 107-year-old school, Anthony and Artisse seemed to lack a lot of the resources of many other elementary students in the Columbus district – supplies, library books and other materials.

The central question became crystal clear: Had the Columbus School Board kept its promise of providing an equitable education to all students, regardless of the demographics of their neighborhood?

At *The Dispatch*, we assemble teams based on the needs of each project rather than relying on the same few reporters to tackle every topic. For “Dividing Lines,” we selected four reporters. Education beat reporter Bill Bush has strong data

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## Unequal

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analysis and mapping skills. Metro columnist Barbara Carmen, a former Columbus schools reporter with extensive sources, has a gift for bringing people to life in print. State Desk reporter Mary Beth Lane can parachute into unfamiliar territory and quickly produce compelling stories. And Jonathan Riskind, the newspaper's bureau chief in Washington, D.C., has a wealth of contacts and knowledge of national issues such as education reform.

The reporting team benefited from working with a sole photographer, Doral Chenoweth III. He knew clearly how each story fit into the whole series. The payoff: words and pictures that worked in sync to tell gripping stories.

After selecting a team, the hardest part of any project is transforming a block of marble into a finely sculpted piece of art. That's why our newspaper spends a lot of time chiseling at that big heavy chunk through research, brainstorming sessions, strategy meetings, written outlines and more written outlines.

To make the project manageable, the team decided to focus on the district's 88 elementary schools. Because they represent the front lines of urban education, the elementaries best reflect the consequences of returning to neighborhood schools.

Early on, we decided that data – not anecdotes – would guide the reporting. The data led us to key schools that illustrated specific developments. Students, teachers and administrators in those buildings became critical sources.

Like their counterparts in most school systems, Columbus district officials made it tough to get the data while paying lip service to openness. Carmen noted the irony: "They're playing keep-away with the numbers, and 'public' is their middle name," she said of Columbus Public Schools.

Because public school districts must report a lot of their demographic data to the Ohio Department of Education, we filed simultaneous records requests. To our amazement, the state responded with lightning speed, e-mailing Excel spreadsheet files – sometimes within hours of a request – for more than 3,600 school buildings in Ohio.

That rapid response helped keep the team from stalling as the Columbus district took seven weeks to provide electronic data. Once we had those master files for more than 65,000 students (with names and identifying student numbers redacted) and more than 10,000 school district

Doral Chenoweth III | The Columbus Dispatch



A kindergarten student ignores a volunteer tutor during reading time at Kent Elementary School on the East Side in Columbus.

employees, the data analysis sharpened. Because every student and employee had an assigned school, we were able to link those master files to other data sources.

For instance, we could now determine the racial and economic makeup of students in schools with the most rookie teachers. Or the racial makeup of teachers in schools with the highest per-pupil spending. With the master files, the combinations were seemingly endless.

Bush and I split the data work so that we could produce results more quickly. The analysis revealed that:

- Veteran educators generally work at schools in middle-class neighborhoods, while beginning teachers get assigned to the poorest schools.
- Spending by building bears little relation to the number of poor children, although hundreds of thousands of dollars in federal grants flow to the schools with the most needy students.
- Private donations of items such as computers and playground equipment exacerbate inequities among schools but go untracked districtwide.
- The high percentage of poor children in some schools goes hand in hand with plummeting passing rates on the fourth-grade proficiency test.
- Many schools that lost poor children with the end of busing for integration now boast test scores that have risen by impressive margins, qualifying them for more resources.

"Dividing Lines" marked the first time that

*The Dispatch* produced an investigative news series followed by a multi-day series of editorials with fresh reporting and research. Editorial writer Carolyn Davis worked in conjunction with the news team, but each side exercised its autonomy throughout the project.

Change comes all too gradually for the large Columbus district, so fallout from the coordinated news and editorial series likely will continue for months and possibly years. To date, results include:

- An African-American school board member filed a lawsuit in federal court against the district and others whom he alleges have "deliberately re-created a racially discriminatory school system, wherein poor and black and minority children are deprived of their education." The lawsuit is working its way through U.S. District Court in Columbus.
- The school board decided to revise its policy on equity for all students to ensure that the neediest students get the resources necessary for success. A new detailed policy is in the works.
- Board members are considering an alternative form of funding by school, a method used in Seattle to distribute financial resources more equitably.

*Doug Haddix is projects editor of The Columbus Dispatch. The "Dividing Lines" news series and follow-up editorial series by The Columbus Dispatch can be read online at [www.dispatch.com/news/special/schools/cpsmain.html](http://www.dispatch.com/news/special/schools/cpsmain.html).*

## MEMBER NEWS

CONTINUED FROM PAGE 5

chief investigative reporter for 18 years, for a spot on the investigative team at the *San Jose Mercury News*. ■ **Doug Most** has moved from reporting for *The Record* in Hackensack, N.J., to senior editor/writer at *Boston Magazine*. ■ **Judy Miller**, who chairs IRE's Board of Directors, has moved up to assistant managing editor/metro at *The Miami Herald*. ■ **Jacque Petchel**, formerly assistant city editor, is now the investigations editor at *The Miami Herald*. ■ **Jim Robinson**, formerly executive city editor for Long Beach's *Press-Telegram*, is now managing editor. ■ **Jordan Rau**, formerly *Newsday's* New York state correspondent, is now the Albany bureau chief. ■ The Atlantic City Press Club's National Headliner Awards gave top honors to **Mark Skertic** of the *Chicago Sun-Times* for investigative reporting and to **Russ Buettner** of the *New York Post* for public service reporting.

## Legal Corner

CONTINUED FROM PAGE 31

filed with the court clerk. Nor is a record of the subpoena created unless the recipient files with the court an objection to compliance. Thus, a subpoena issued by an attorney may not appear on any official court docket. And therefore, although New York law governing access to court records requires a court clerk to "diligently search the files, papers, records and dockets of his office" and make copies or certify that the records cannot be found, many subpoenas will never "be found" because no record of their delivery exists.

Given these gaps in any identifiable index of court proceedings, a court decision to cut off all FOIL access to subpoenas would have the effect of "shrouding" subpoenas "with the cloak of secrecy." IRE and its amici submitted to the court that this would be directly contrary to the legislative declaration accompanying the enactment of FOIL: "Access to [the process of government decision-making and documents and statistics leading to determinations] should not be thwarted by shrouding it with the cloak of secrecy or confidentiality" (N.Y. Pub. Off. Law article 6 § 84).

## IRE SERVICES

INVESTIGATIVE REPORTERS AND EDITORS, INC. is a grassroots nonprofit organization dedicated to improving the quality of investigative reporting within the field of journalism. IRE was formed in 1975 with the intent of creating a networking tool and a forum in which journalists from across the country could raise questions and exchange ideas. IRE provides educational services to reporters, editors and others interested in investigative reporting and works to maintain high professional standards.

### Programs and Services:

**IRE RESOURCE CENTER** – A rich reserve of print and broadcast stories, tipsheets and guides to help you start and complete the best work of your career. This unique library is the starting point of any piece you're working on. You can search through abstracts of more than 17,000 investigative reporting stories through our Web site.

Contact: Pat Coleman, pat@ire.org, 573-882-3364

**DATABASE LIBRARY** – Administered by IRE and the National Institute for Computer-Assisted Reporting. The library has copies of many government databases, and makes them available to news organizations at or below actual cost. Analysis services are available on these databases, as is help in deciphering records you obtain yourself.

Contact: Mary Jo Sylwester, maryjo@nicar.org, 573-884-7711

**CAMPAIGN FINANCE INFORMATION CENTER** – Administered by IRE and the National Institute for Computer-Assisted Reporting. It's dedicated to helping journalists uncover the campaign money trail. State campaign finance data is collected from across the nation, cleaned and made available to journalists. A search engine allows reporters to track political cash flow across several states in federal and state races.

Contact: Ron Nixon, ron@ire.org, 573-882-2042

**ON-THE-ROAD TRAINING** – As a top promoter of journalism education, IRE offers loads of training opportunities throughout the year. Possibilities range from national conferences and regional workshops to weeklong bootcamps and on-site newsroom training. Costs are on a sliding scale and fellowships are available to many of the events.

Contact: Ron Nixon, ron@nicar.org, 573-882-2042

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**THE IRE JOURNAL** – Published six times a year. Contains journalist profiles, how-to stories, reviews, investigative ideas and backgrounding tips. *The Journal* also provides members with the latest news on upcoming events and training opportunities from IRE and NICAR.

Contact: Len Bruzzese, len@ire.org, 573-882-2042

**UPLINK** – Monthly newsletter by IRE and NICAR on computer-assisted reporting. Often, *Uplink* stories are written after reporters have had particular success using data to investigate stories. The columns include valuable information on advanced database techniques as well as success stories written by newly trained CAR reporters.

Contact: Mary Jo Sylwester, maryjo@nicar.org, 573-884-7711

**REPORTER.ORG** – A collection of Web-based resources for journalists, journalism educators and others. Discounted Web hosting and services such as mailing list management and site development are provided to other nonprofit journalism organizations.

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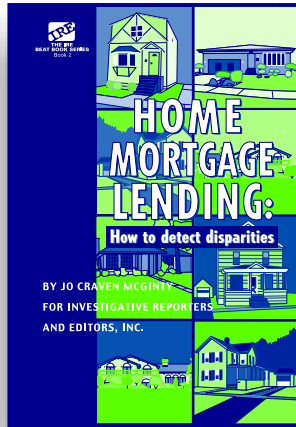
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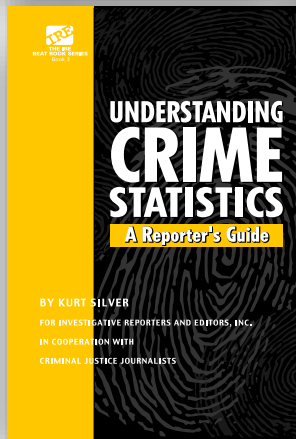
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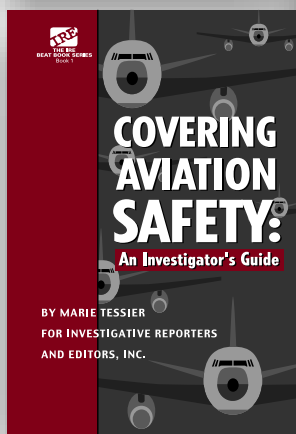
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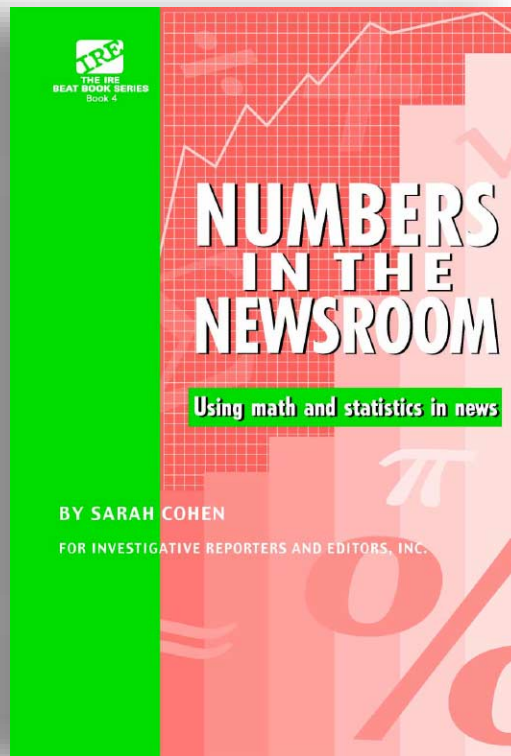
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