

THE IRE JOURNAL

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Angel Avila, 15, from Honduras, was nicknamed "The Cherub." He was arrested for shoplifting and gave up his request to live in the U.S. after two months in a juvenile detention center where he had been in fights, pepper-sprayed and held in solitary confinement.

Cover story, page 20-27

Cover photo by
Michael Lloyd, *The Oregonian*

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FROM THE IRE OFFICES

Focusing training efforts



BRANT HOUSTON

We know it's a tough year for every journalist and for every newsroom. We know that budgets for training and travel to conferences are often the first to go. And we know that everyone's personal budget is stretched. But here at IRE we believe that we should keep sharing and learning, and we are doing all we can to make it easier for members to get the help and training they need.

In January, we had an extraordinarily successful regional conference at the National Press Club in Washington, D.C. With the help of supporters at the Press Club and a strong contingent of terrific speakers, we offered a program of a dozen panels that brought more than 200 journalists together for a day.

That kind of close-knit workshop is the kind of training we think will be the most affordable and valuable in the coming months. So – with the help of newsroom training directors, members and friends – we are putting together a series of one-day seminars on doing investigative and enterprise stories while on the beat. These workshops are planned for every area of the country and they will be inexpensive and easy to get to for journalists from small- to medium-sized news organizations and for journalists in the bureaus of larger newspapers.

Our first one will be in Madison, Wisc. A special thanks goes to Andy Hall of the *Wisconsin State Journal*, who brought together a sponsoring group including his newspaper, Lee Newspapers, local news organizations and press associations to make it happen.

We hope to have a dozen more workshops over the next 15 months and are already planning events in Southern California, Michigan and Connecticut. The workshops will be staffed by IRE trainers and expert journalists who volunteer their help. The program will include such topics as document and Internet searches, cultivating sources, doing difficult interviews and making better use of open records and Freedom of Information laws. In addition, there will be materials placed on the Web site as follow-up to these sessions.

If you are interested in helping us, please contact me at brant@ire.org or IRE Training Director Ron Nixon at ron@ire.org. We are looking forward to these workshops that have the grassroots spirit of IRE.

Federal contracts, contributions on Web

As part of IRE's effort to help members in their federal government watchdog role, we continue to expand our services at the Campaign Finance Information Center (www.campaignfinance.org). We have improved the "power search" capabilities so that you can search for free the last 10 years of federal contracts for a specific contractor (try Enron) and then see to whom that particular contractor's political action committee contributed. We plan to increase the search capabilities in the coming months.

Belt-tightening at IRE

Like everyone, IRE is watching its budget by cutting costs. But we also are launching new initiatives that we hope will attract funds and become self-sustaining. In the coming months, we will announce the new efforts on the Web site, through our listservs and our publications. We hope you will suggest areas in which we can provide training, resources, and help.

In the coming months, we will work hard to ensure that IRE members will continue to receive a high level of support despite these difficult economic times. We also will not slow in our efforts to build the endowment fund so that the IRE will remain financially secure and independent in the future.

As you can see from the inserted Endowment Update in this issue, the individual response to the endowment drive has been widespread and impressive. Many thanks from the board and staff.

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 or by calling 573-882-2042.

Members seeking jobs get free Web site ads

As part of IRE's commitment to help members during the economic downturn, job-wanted ads have been added to the list of benefits available to members.

Job seekers can now anonymously post their qualifications and the position wanted on the IRE Web site, where the information will be accessible to news managers around the world.

Each listing includes a blind e-mail address that automatically forwards responses to the job seeker without revealing his or her identity. Members can then invite potential employers to contact them.

IRE also will continue to post job openings for reporters, producers, researchers, editors and faculty that are submitted by employers. Visit the IRE Job Center (www.ire.org/jobs/) for more details.

OSHA and mortgage data updated in IRE collection

The IRE and NICAR database library recently updated two major components of its collection – the Occupational Safety and Health Administration workplace safety and Home Mortgage Disclosure Act databases.

The OSHA data contains detailed information regarding workplace inspections, injuries, hazardous substance accidents, as well as violations for federally inspected companies in the U.S. and its territories. Journalists can help protect public safety by identifying companies within their communities that have hazardous working conditions.

The HMDA data includes records of mortgage applications reported in 2000 by all banks, savings and loans, savings banks and credit unions with assets of more than \$10 million and offices in metropolitan areas. It contains demographic information about loan applications, including race, gender and income; the purpose of the loan; the type of loan; and whether the loan was approved or declined. Reporters can review practices of local lenders by identifying banks, savings and loans, savings banks or credit unions that show high rates of denials for loans sought by minorities.

To order the data, contact the database library at 573-884-7711 or peruse its government data collection, including documentation and sample data, online at www.ire.org/datalibrary/ databases.

IRE Award winners share techniques in new book

Hot off the presses! IRE's latest book – *The IRE Collection: Winning Investigations* – spotlights the top investigative reporting from 2000.

The book recognizes the winners and finalists from the 2001 IRE Awards in print, broadcast and online journalism. For each winning story, a synopsis is provided along with information on how the investigation was performed and the techniques and resources that proved most valuable. Judges' comments are included for all medal and certificate winners.

The collection, a salute to top investigative work, presents an opportunity for IRE members to admire and learn from the work of their colleagues. The lessons will serve as a valuable resource for years to come.

The IRE Collection: Winning Investigations can be ordered through the IRE Web site (www.ire.org), by calling 573-882-3364 or by sending a check and ordering information to IRE at 138 Neff Annex, Missouri School of Journalism, Columbia, Mo. 65211. Books are \$16 each for IRE members, \$30 each for nonmembers. Include \$4 for postage for the first book, \$2 for each additional book.

National CAR conference is March 14-17 in Philly

The National Computer-Assisted Reporting Conference, which will take place March 14-17 at the Doubletree Hotel in downtown Philadelphia, is an opportunity for newsrooms to participate in one of the most essential training sessions in journalism.

More than 50 panels, touching on every beat, will be featured at this year's conference, as well as hands-on classes on databases, spreadsheets, Internet research, mapping and statistical analysis. Special sessions on terrorism, aviation safety and other heightened reader-viewer concerns have been added.

To register for the conference, visit www.ire.org/training/philly or call IRE at 573-882-2042. For hotel reservations, call 215-893-1600 and ask for the IRE and NICAR room block.

Update ...

Senior contributing editor Steve Weinberg has added another book to his list of the best of investigative books for 2001, which appeared in the January-February edition: "Holy War, Inc." (Free Press) by Peter Bergen.

MEMBER NEWS

The North Carolina Bar Association's 2001 Media & the Law Awards, which recognize insightful coverage on law-related issues, have honored **Paul Garber** of the Greensboro News & Record for his story on child welfare and the termination of parental rights in North Carolina. ■ **Molly Hennessy-Fiske** has moved to *The (Raleigh) News & Observer* as a general assignment reporter on the metro desk. ■ **Deedra Lawhead** is now city editor for the *Lexington Herald-Leader*. ■ **Klare Ly**, formerly of WPTZ-TV in Plattsburgh, N.Y., is now a general assignment reporter for public television station KETA-TV in Oklahoma City. ■ **Colleen O'Dea** received honorable mention in the 2001 Casey Medals for Meritorious Journalism. O'Dea, a reporter for the *Daily Record* in Parsippany, N.J., was cited for "The Working Homeless: New Casualties of Welfare Reform," which appeared in the August 2000 issue of the *New Jersey Reporter*.

■ **Carlos Sanchez** is now the editor of the *Waco Tribune-Herald*. He was previously the state editor for the *Austin American-Statesman*. ■ **Jacqueline Thomas**, former editorial page editor for *The Baltimore Sun*, now writes a column called "Letter from Chicago" for several small newspaper group papers.

■ **Fredric N. Tulsy** of the *San Jose Mercury News* was a finalist in the International Consortium for Investigative Journalists 2001 Awards for Outstanding International Investigative Reporting. ICIJ recognized Tulsy for his series "Uncertain Refuge," which investigated the nature of U.S. asylum policy. Tulsy analyzed more than 175,000 Justice Department records for the series and traced one man's journey from Cameroon to the United States.

Send Member News items to Len Bruzzese at len@ire.org and include a phone number for verification.

PLANNING UNDER WAY FOR SAN FRANCISCO CONFERENCE

BY GINA BRAMUCCI
THE IRE JOURNAL



Reporters and editors are bound for the City by the Bay this year for the IRE National Conference, May 30-June 2. The conference has become an invaluable tradition for newsrooms around the country, offering journalists the chance to enrich their skills through workshops and panel discussions featuring top-notch investigative reporters.

The IRE conference comes at a crucial moment in journalism. With national security high on the public agenda, reporters and editors are facing increasing challenges to freedom of information. The San Francisco conference will present beat basics, while giving special attention to the major stories and information access issues that have emerged in the past year.

Panels will highlight the best investigative journalism from around the nation, delving into energy regulation and deregulation, immigration, military and defense issues and campaign finance reform. In light of the high-profile collapse of Enron and the Kmart bankruptcy, attendees also can expect tips on using business documents and covering corporate fraud.

This year's conference will integrate international journalists into panels more than ever before. "The issues we cover have clearly become global," said Brant Houston, IRE's executive director. "IRE is expanding and building on the network of journalists helping each other,"

With the *San Francisco Chronicle* as a local host, the conference location also will allow for greater focus on coverage of diversity, said Houston. "A great thing about San Francisco is the diversity of the media in scope, ethnicity and approach," he said.

In addition, the always-popular presenters Donald Barlett and James Steele will make another appearance this year, sharing what they've learned in more than three decades of prize-winning investigative journalism. (Note their story on the Olympics in this issue of *The IRE Journal*.)

Fast-track sessions aimed at print, broadcast and online journalists will deliver the nuts and bolts of beat reporting – offering tips for backgrounding individuals and for covering schools, businesses, city halls and courts.

On Thursday, panels dedicated to computer-assisted reporting will help journalists learn and fine-tune their CAR skills. Veteran reporters will collaborate with NICAR staff to tackle issues related to the criminal justice system, as well as campaign finance, the latest census releases, mapping and geographical information systems.

As always, the winners and finalists of the IRE Awards will be announced on Saturday. The awards presentation is an occasion for IRE to pay tribute to the best investigative reporting from 2001.

On Sunday, speakers from the Poynter

CONTINUED ON PAGE 7 ➤

Running for the Board of Directors

The IRE Board of Directors serves as the governing body of IRE and meets several times a year – both in person and in conference calls – to debate and vote on issues. Directors serve on various committees made up of board members and appointed non-board members to focus more closely on such topics as diversity, the endowment, freedom of information and programs.

IRE members considering running for the board will have a shot at one of seven seats this year, although incumbents are allowed to seek re-election.

Although members have until May 31 to get on the "election-day ballot," candidates have an opportunity this year to also be on an absentee ballot that will be made available to members not able to attend the conference. [See accompanying article.]

To get on both ballots, candidates must declare by **April 8**. Declaring consists of sending a candidacy statement with brief biographical information to the IRE offices.

This information also will start going onto the IRE Web site starting the first of April.

Even if you don't make it onto the absentee ballot, statements will be accepted as late as **May 21** for Web posting.

Candidates who wait until the conference to announce, must deliver a one-page statement/bio to the IRE executive director or deputy director by 5 p.m. Pacific time on Friday, **May 31**. These – along with the previous Web announcements – will be posted on a bulletin board in the main conference area.

At the Saturday afternoon (June 1) membership meeting, candidates will need to be nominated and seconded from the floor by two other IRE members. There will be no nominating speeches, but candidates will have two minutes to address their peers. The ballot at the membership meeting will include all candidates declared through the May 31 deadline.

Immediately following the board elections, there will be a separate election for IRE Awards contest judges. Those candidates will be nominated and seconded from the floor. Voting will be by ballot.

Board candidates wanting to appear on the absentee ballot and/or the IRE Web site, should submit a candidacy statement/bio limited to 400 words. Head shots are encouraged. Send announcements via e-mail to Deputy Director Len Bruzzese at len@ire.org along with contact information.

Absentee ballots to be allowed for first time in board elections

By The IRE Journal staff

For the first time in IRE's 27 years, absentee ballots will be accepted in the board of directors' election this June.

The new voting procedure will allow interested members who are unable to attend the annual membership meeting at the national conference to participate in choosing the organization's leaders.

"Over the years, there have been concerns voiced by members who could not afford or did not have the time to attend the national conference," said Mike McGraw, a member of the special committee created by the board to examine the absentee question. "The board felt it was time to address that issue," he said.

The special committee includes Shawn McIntosh of *The Clarion-Ledger*; James Polk, CNN; Dianna Hunt, *Fort Worth Star-Telegram*; James Steele, Time Inc.; and McGraw, *The Kansas City Star*.

McGraw added that all sides in the issue – especially those who have historically opposed absentee balloting – worked hard to come up with an acceptable solution. He said the IRE staff and board have come up with a practical and secure application of the new procedures.

Absentee balloting is meant to supplement, not replace, IRE's traditional election process, which encourages membership meeting attendance as a sign of commitment to the group and to involve as many members as possible in discussions of importance.

Members attending the annual conference are still expected to cast their votes at the membership meeting. Only those not planning to attend the meeting – and requesting a ballot in advance – will be able to vote before the conference.

The absentee balloting system will include several safeguards, including use of addresses of record, signed special ballot envelopes kept under lock and key and sealed until the membership meeting, and cross-checks of absentee voters against conference registration rolls.

Declaring as a candidate

The deadline for candidates to make it onto the absentee ballot is **April 8**. Candidates announce by delivering candidacy statements and bio information (up to 400 words) to IRE. A photo is optional, but encouraged. [See accompanying article on running for the board.]

Candidate information will go on the Web by April 10 and absentee ballots will be ready by April 15.

Candidates can still declare via e-mail until May 21 and get their info on the Web, but their names will only appear on the conference ballot.

Requesting ballots

IRE members whose membership status will be current through June 30, 2002 may request absentee ballots by phone, e-mail or in person. Each ballot will be sent to the address of record for that member along with information on how to fill out the ballot properly. Requests may be submitted through **May 17**. Completed absentee ballots must be received at the IRE offices by **May 24** to be valid.

Only international members requesting absentee ballots will be allowed to vote via e-mail.

Absentee ballots will not be made available at the national conference nor will previously completed ballots be accepted at the national conference. Also, any member having submitted an absentee ballot in advance, who then attends the conference, shall have his or her absentee vote voided.

"If you attend the conference, you are expected to vote at the conference," McGraw said.

Membership meeting

All candidates still must be nominated and seconded from the floor at the annual membership meeting. They also must be present at the meeting and deliver their two-minute speeches to remain eligible.

The special committee on absentee balloting will consult after the June election to review procedures, listen to feedback from members and suggest changes, if needed.

Institute will expand the work they did last year to help reporters strengthen their skills and build their careers. Special sessions will focus on becoming a better writer or developing better broadcast skills – essential tools in a time of tough markets.

IRE business

Each year, IRE addresses membership business during the conference. Elections for board of director seats will take place on Saturday, June 1. Members can request an absentee ballot if unable to attend the conference. [See accompanying article.]

A separate election for IRE Awards contest judges will take place immediately following board elections.

The conference will be held at the San Francisco Hyatt Regency. Members can register online at www.ire.org/training/sanfran/ or photocopy the form found in this issue of the *Journal*. Hotel reservations can be made by calling the Hyatt Regency at 415-788-1234 or 800-233-1234.

Gina Bramucci is editorial intern for The IRE Journal and a graduate student at the Missouri School of Journalism.

Pen & Sword

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**SNOW
JOB**

SALT LAKE 2002

Winter Olympic goodies
courtesy of Uncle Sam

BY DONALD L. BARLETT
AND JAMES B. STEELE

TIME INC.

In years past, prospectors looking for precious metals sank shafts all over the Wasatch Mountains outside Salt Lake City. The mines are closed now, but Utahans haven't given up the hunt. They just moved operations a little further east, to a place called Washington, D.C., where finding gold turned out to be a lot easier than it ever was back in Utah.

Welcome to the 2002 Winter Olympic Games, sponsored in part by you – and all other American taxpayers. As we discovered in an investigation for *Sports Illustrated*, Utah officials have been remarkably successful in prying money out of Washington to pay for anything even remotely connected to this year's games in Salt Lake.

The tab, we ultimately concluded, is \$1.5 billion thus far, making the Salt Lake games the most expensive ever for federal taxpayers

– two and one-half times more costly than the 1996 summer games in Atlanta, which had three times the events.

In fact, more federal money is being spent on the Salt Lake games than on all seven Olympic games held in the U.S. since 1904 – combined – in inflation-adjusted dollars. It works out to an average of \$625,000 per athlete, though of course none of this money actually goes to the athletes. Instead, the beneficiaries are an assortment of local businessmen, resort owners and developers. Millionaires all.

The story originated more than a year ago when *SI* editors came across a General Accounting Office (GAO) audit indicating that the federal share of U.S.-sponsored Olympic games was soaring and approached us about the possibility of taking an in-depth look. In many ways it was a logical story for us – much in the spirit of our 1998 corporate welfare

series for *Time* and very much in *SI*'s tradition of tackling controversial subjects.

To get the story meant employing techniques all reporters use on any long-term project: interviews; tips; field trips; reams of statistics; historical records; and government documents. In the end, "Snow Job" was a classic public records story – pieced together from the records of dozens of federal, state and local agencies.

The numbers

Breaking down the overall cost of the games to federal taxpayers was the single most challenging task. There is no one source for the amount Washington has shipped to Utah. Some data is included in GAO audits. Other statistics came from Utah's Olympic Officer. Still more data was provided by individual federal and state agencies after phone calls, letters or FOI requests.

All along we met resistance, notably from federal agencies. The Department of Transportation and U.S. Forest Service proved especially difficult; a Transportation Department official initially told us there was no way to provide the figures that we requested. But persistence paid off and DOT eventually acknowledged that, yes, they did have the numbers, and then, albeit reluctantly, provided them.

Another obstacle arose when agencies supplied different numbers for the cost of the same project. The federally funded temporary Olympic parking lots are a case in point.

Millions of dollars were poured into open fields near Park City to build two 80-acre lots that will be used for about one month by those who are lucky enough to be able to afford tickets to events in nearby Park City and Olympic Park. Then, courtesy of federal taxpayers, the lots will be torn up and the land restored to its previous state.

The GAO put the cost of the lots and other "spectator transportation" items at \$77 million. Utah's Olympic officer says the U.S. contributed \$31 million for the lots. The Utah Department of Transportation, which built the lots, put the federal share at \$23 million, though the final total won't be known until after the games. When conflicts like this arose we invariably used the lower number. We try to be conservative in using numbers; if you don't overreach, it usually means less trouble down the road and it doesn't take away from your point.

Historical record

We have long found that readers like to see

LEGAL CORNER

a story placed in context. In many projects, examining the historical record may not only turn up evidence to buttress the key points of a story, but also provides fresh insights and documents disparate treatment and that old standby – institutional hypocrisy. So it was in this case where a review of previous Olympics held in the United States – particularly the Summer Games in Atlanta (1996) and Los Angeles (1984), and the Winter Games in Lake Placid (1932 and 1980) – proved especially valuable.

For example, statistics on federal spending in Los Angeles allowed us to place comparable Salt Lake spending in context. On a per-athlete basis, federal outlays rose from \$11,000 to \$625,000. That would translate into a current minimum wage of \$190 an hour, a more meaningful number for the average reader than \$1.5 billion.

Also, in poring through the archives of the 1980 Games at Lake Placid, we found the bankruptcy papers that the Lake Placid Olympic Committee had prepared – but never filed. The Games ended with a \$6 million deficit and the Carter Administration had refused even a modest bailout of \$3 million. New York state eventually came to the rescue, eliminating the need for bankruptcy. (Should the Salt Lake Games end with a deficit, this could make for a fascinating contrast).

Finally, by compiling the voting records of Utah lawmakers in previous Olympics, we established that the state's congressional delegation, which brought all the federal tax dollars home to Utah, had opposed such spending at Lake Placid in 1980, indeed, had even opposed selection of the New York community as the site for the games.

The courthouse

Tracking real estate deals is rarely simple. For this project, piecing together all the details to show how private interests benefited from millions of dollars in federal road subsidies proved to be a most tedious exercise.

One area that was the focus of considerable real estate activity adjoins Utah Olympic Park, site of the ski jumping, bobsled and luge events. In the fall of 1990, a California developer, Clinton Charles Myers, and his partners acquired more than 1,100 acres on the mountain that had long been eyed by Utah's Olympic boosters as the ideal site for ski jumping.

Then Myers donated a third of the land for the Olympic park, in what was hailed at the time as an act of great generosity, though in reality

CONTINUED ON PAGE 37 ➤

Alternative Dispute Resolution often chosen to bar reporters



RICHARD C. REUBEN

When the two sides involved in a civil dispute try to resolve their differences before a court trial, they may enter what is known as Alternative Dispute Resolution (ADR). Different forms of ADR exist, including mediation, non-mediated settlements, arbitration, or trials before a judge or jury that have nonbinding verdicts.

However, these proceedings are not open to the media, which is exactly why many people choose them, says Richard C. Reuben, an associate professor of law and adjunct professor of journalism at the University of Missouri in Columbia.

"ADR provides a forum in which parties can discuss their differences in a frank and candid manner without worrying about someone else hearing it. But for a journalist, what sounds like 'confidential' on one side sounds like 'secret' on the other," Reuben says.

Reuben made his comments to The Reporters Committee For Freedom of the Press. The following is an excerpt from that interview, reprinted with permission:

Why is a court-ordered settlement conference not considered to be a court proceeding?

Because there's a lot of information, ideas and interests that are discussed that may or may not find their way into the final settlement agreement, and it's the agreement itself that the parties are asking the courts to enforce.

Businesses will often agree in a contract that, if a dispute arises, they will go to private arbitration rather than file a complaint in court. If arbitration is chosen in this manner, is it public?

One of the standards the U.S. Supreme Court has used over the years to determine whether private conduct can be viewed as public is the "entanglement rationale." Under this rationale, where the public and private conduct are sufficiently entangled to the point that it would be fair to attribute that private conduct to the

government, the courts will do so.

With regard to arbitration, there are laws that allow for enforceability of arbitration agreements and awards. Under the Federal Arbitration Act and similar state laws, courts may decide whether there is an agreement to arbitrate and if there is one the court will enforce that agreement. When the arbitrator decides the case, it might go back to the court for purposes of enforcement, and the court has continuing jurisdiction over the case while it is privately arbitrated. When you look at the case law on entanglement, this is actually a higher degree of entanglement than has been found in most of the cases in which the courts actually found entanglement. Thus, the structure of the law that generally permits the enforceability of those private agreements to arbitrate creates the type of entanglement that gives rise to the application of the state action doctrine. Because of the partnership between public and private actors, those private arbiters should be considered public actors for constitutional purposes.

Should public access to ADR proceedings depend on whether the litigants are public or private entities?

In some respects, it does matter. In most states, where one of the parties is a government entity subject to open records and meetings laws, press access may be granted. On the other hand, access to disputes involving private parties is often determined by the parties themselves.

Should access depend on the type of ADR used? For example, should there be different rules for non-mediated settlement as opposed to court-ordered settlement?

It seems to me that the arguments are greater that one should have access when the parties are compelled into mediation or another form of ADR. On the other hand, what makes those

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Fred Faerber lost his toes because of an accident and complication with diabetes. He said he wouldn't go into the hospital until doctors agreed not to give him insulin, which would stop him from trucking.

HIGHWAY HAZARD

Medical certification flaws
keep unfit truckers on the road

BY STEVE TWEDT

PITTSBURGH POST-GAZETTE

As news tips go, it didn't pack the urgency of a four-alarm fire.

A local physician phoned in the autumn of 1996 to rant about a patient she'd seen a few months earlier.

The truck driver had come to her for a physical exam required of commercial truck and bus drivers every two years by the U.S. Department of Transportation. Because some of his medications might impair his alertness, she would not sign his medical card.

Now she'd learned that he'd gone to another doctor and, without mentioning his

medications this time, passed his physical and was back on the road.

The federal officials she contacted shrugged their shoulders, making her mad enough to bust a blood pressure cuff.

But what kind of story was that? One trucker circumvented the rules to keep his job. She didn't know if he'd ever had an accident, or ever would. To preserve patient confidentiality, she wouldn't tell me his name or where he worked. It didn't warrant even a news brief.

That single anecdote, though, revealed

something larger – a systemwide hole in the federal safety net meant to insure that commercial truck and bus drivers are healthy enough to drive their 80,000-pound rigs on America's highways.

No tracking system

During the next three years, I collected sources, stories, accident investigations and anything else I came across that involved a commercial driver with a serious medical condition who was involved in an accident.

It became almost a hobby, picking up these

odd threads and adding them to the growing collection. I even took nine months off while in the Michigan Journalism Fellows program, though I made sure I met faculty members at the Ann Arbor university's highly regarded transportation research institute while I was there.

Here's what I learned early on: The Department of Transportation requires that every commercial driver carry a valid medical card certifying they are fit to drive a big rig. The card can be signed by anyone with state authorization to do physicals, including chiropractors and physician assistants. The examiner doesn't need to demonstrate any proficiency or understanding of DOT medical regulations. Also, as was apparent from that first phone call, no tracking system exists for drivers who fail a physical, allowing them to go from examiner to examiner until they find one who will pass them.

Some of the stories that surfaced just around Pittsburgh were equal parts horrifying and hilarious:

- The driver who passed his DOT physicals despite having narcolepsy so severe, he'd fall asleep mid-sentence at the dinner table. During the day he worked two jobs, hauling heating oil in the morning and driving children home on a school bus in the afternoon. None of his examiners had asked him if he had sleeping problems.
- An independent trucker who scouted examiners to avoid "by-the-book" types who would give him a thorough physical. He successfully passed the DOT physicals for 20 years before an examiner noticed he had an artificial leg. Another driver was routinely certified despite having only one eye (and no depth perception).
- A driver who, when informed that his anger-control medication might make him sleepy, reassured the examiner that "I don't take it when I'm going to be driving."

Other stories tugged at the heart, like the 37-year-old driver who regretted telling his doctor about a heart attack suffered hauling a load of canned soup. That admission cost him his job and, if he had it to do over, he said he would keep driving so his family could collect the insurance. He figured when a massive heart attack hit him on the road, he'd stay conscious long enough to safely steer his truck off the highway.

Checking newspaper databases, various tragic stories came up across the U.S. There

was the Florida gas hauler who hid his epilepsy from his employer, then had a seizure while driving. His tanker, loaded with 8,800 gallons of gasoline, went off the road, hit some trees and burst into flames, killing the driver.

And the diabetic Texas trucker who forgot to take his insulin, ran two red lights and rammed a sedan, killing the driver and injuring two small children. Under DOT regulations, insulin-dependent diabetics are not allowed to drive commercial vehicles unless they have a special exemption.

“...the driver who passed his DOT physicals despite having narcolepsy so severe, he'd fall asleep mid-sentence at the dinner table. During the day he worked two jobs, hauling heating oil in the morning and driving children home on a school bus in the afternoon. None of his examiners had asked him if he had sleeping problems.”

Another obvious database, DOT's Fatal Accident Reporting System, or FARS, proved less helpful. Setting up an Access query for FARS was easy enough, sorting out fatal

accidents involving large commercial trucks and buses then cross-matching against the driver-related factors. From there, the data got murky.

Broader categories such as fatal accidents where the driver became ill or blacked out produced lots of hits but it wasn't clear which ones applied. A truck driver might pass out for lots of reasons, from a bad flu to a heart condition. On the other hand, an accident attributed to a truck straying from its lane may mask a medical problem with the driver. To determine which was which, I had to track down the investigating police department for each accident (it could be city, county or state police) and request the incident report.

Usually that meant sending a letter with a \$2 or \$3 check, then hoping it took them less than a millennium to process and mail a copy to me.

Some of these reports turned out to be highly detailed and complete; others amounted to a few scribbled notes, obviously written in a hurry and without much thought. Together, they provided only a partial picture of what I wanted to know.

Two FARS categories sounded like sure things – fatal accidents where either a reaction to medications, or a failure to take medication, was a listed factor. On the first run through, about 30 to 35 cases showed up each year.

Considering more than 5,000 people die each year in big rig collisions, it's not an eye-

CONTINUED ON PAGE 12 ➤

Robin Rombach | Post-Gazette



Tom Ries scouted different examiners in hopes of finding one who might not notice his artificial leg. It went undetected by doctors for 20 years.

CONTINUED FROM PAGE 11

catching total. But what if they all involved the same medical condition, or the same medication?

In refining the query, though, an unexpected hazard sign flashed – year after year, about half the medication-related fatalities occurred in one particular Southern state. How could this be? Officials in Washington were puzzled, too, and checked into it. Turned out, the state

a fatal accident scene, taking time to fill out a detailed report, then sending it to a state official who will accurately record and forward it to Washington, D.C. It's a gross measurement at best.

A single catastrophe

What finally crystallized the truck driver story was not a database, or a set of statistics, or any other sleuthing by us. It was, predictably and inevitably, a fatal crash of epic proportions. On Mother's Day, 1999, 22 passengers died when their New Orleans chartered bus veered off the highway and into an embankment.

During the investigation, officials learned that the bus driver had a chronic heart condition and failing kidneys, either of which could have disqualified him from driving. The night before the fateful trip, he was hospitalized for dizziness and nausea and, against medical advice, he left the hospital without completing his dialysis.

Authorities also learned he smoked marijuana that night, then reported for work early the next morning.

With so many deaths, the crash naturally attracted national attention. The National Transportation Safety Board (NTSB) scheduled a hearing for January 2000 in New Orleans to

review the bus crash and assess the effectiveness of the commercial driver medical certification program.

Knowing the national spotlight would be directed on this issue, however briefly, I pulled out my three-year-old collection of string, refreshed earlier interviews, and put together the *Post-Gazette's* two-part series, "Rigged for Disaster." It was published the week before the hearing and I made sure that NTSB Chairman Jim Hall had a copy to read during his flight from Washington to New Orleans.

We have no tangible evidence that the *Post-Gazette* stories affected the outcome of the hearing. But, at least for our readers, we were able to frame a single catastrophe in New Orleans in the context of a larger public safety issue that affects anyone who drives U.S. highways.

When the NTSB later released its final report on the New Orleans tragedy, among its recommendations to DOT was one calling for tougher standards to make sure examiners know what they're doing. Another would establish a tracking system to list every driver application for medical certification and its outcome.

Given the imprecision of our fatal accident reporting system, it may be impossible to measure if those proposed changes will make a dent in the yearly death toll. But they can't hurt.

Steve Twedt is a special projects writer and editor for the Pittsburgh Post-Gazette who recently authored a four-part series examining the growing number of mentally ill teens who are being "warehoused" in juvenile lockups.

Steve Mellon | Post-Gazette



Dr. Pamela Gianni says she has been threatened after telling truckers they were medically unfit to drive.

employee responsible for processing accident investigations was inexplicably coding alcohol-related crashes as reactions to medication.

So this is FARS at its most basic level: A system that depends on a harried police officer carefully and thoroughly investigating

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WALKING, TALKING THE MILITARY BEAT

BY STEVE WEINBERG
THE IRE JOURNAL

Ed Offley has covered the military for the *Seattle Post-Intelligencer*, *The Stars and Stripes*, and Defense Watch newsletter. He can explain the difference between a second lieutenant

and a chief petty officer without hesitating. When talk of weaponry begins, Offley knows the difference between an M-16 and an F-16. Lots of journalists have no idea if those designations refer to rifles, airplanes or tanks, much less how they differ in detail.

In short, just as an experienced business journalist can fluently define long and short selling, just as an experienced political reporter can explain the nuances of a U.S. Senate filibuster, Offley can talk the military talk.

Offley's skills are especially valuable in the current reporting climate. In some newsrooms, journalists who can be fairly termed ignorant about most things military recently traveled to Afghanistan. If they carried

Offley's book with them, they might have sounded like they knew the jargon.

Offley has covered stories that might sound boring to some journalists – or harrowing or awesomely important. “In a covered aircraft revetment in Taif,” he reports, “I studied the expressions of sheer

excitement and joy of two Air Force fliers just returned from their first night combat mission over Iraq. ... In a shattered airport control tower at Mogadishu, I watched three young airmen just past their teens ignore

the random gunfire outside as they coordinated a massive aerial supply campaign by the light of a battery-powered lantern.”

But, he says, the rewards of the military beat “are not limited to interesting assignments, foreign travel and the adrenaline rush of a Scud missile attack. There is the satisfaction that comes when in-depth research pays off with confirmation of a long-suppressed Cold War incident. (Did you know the United States once dropped an atomic bomb on Canada?) There is the stronger fulfillment of coming to the assistance of a military service person or veteran who has suffered wrongdoing or inattention at the hands of the bureaucracy. There is the sheer fun of exposing a

phony self-described prisoner of war who never served a day in uniform. And there is the potential that the facts you uncover could significantly – and positively – affect an ongoing military policy debate.”

Writing about the military as a “remote

monolith, an alien culture, a vast bureaucracy of strangers” is ignorant, Offley says. “The stereotypes are very old, and they never die. They are as false now as they have ever been.”

Exploding myths

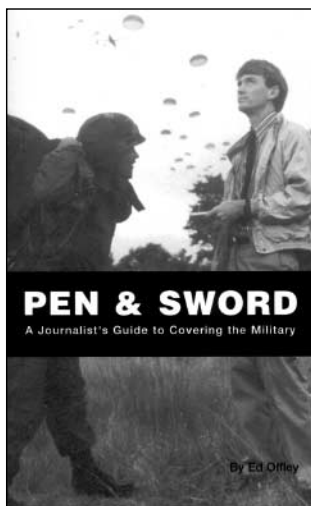
Offley begins his tutorial by describing the five armed services – Army, Air Force, Navy, Marines and Coast Guard. Each of those branches has its unique mission, unique organization and unique rank structure. Offley provides the details. They are numerous, jargon-filled and sometimes confusing. He cannot dispel all the confusion, but he tries mightily to do so.

Before the book ends, Offley also describes: how to expose phony war heroes; help readers/viewers/listeners comprehend the death of a serviceman or servicewoman; cover the crash of a military aircraft; write about secret intelligence operations; mine news releases for project leads; prepare for battle in the field; decipher the defense budget; dig into the performance of private-sector defense contractors; and put the federal Freedom of Information Act to productive use. He also describes how to establish a working relationship with the base commander; surf the many Pentagon-related Web sites; cultivate a no-nonsense relationship with the public affairs officer and freedom of information officer (preferably by going out of the way to meet each of the officers in person); be prepared to withhold (rather than publish) information on so-called national security grounds; pack for prolonged time in or around the battlefield; and much more.

Exploding myths, Offley says reporters should never assume the military's public affairs officer is in the know, that a commander is omniscient, that seemingly cooperative sources would never think of leaking a story to the journalistic competition, that what appears in print or on the airwaves will be read dispassionately by military sources.

Military-journalist relationships are frequently difficult to build because so many military folks perceive journalists as left-wing ideologues, while too many journalists perceive those in uniform as duped patriots. There has to be a better way. Offley's book is a good start.

Steve Weinberg is senior contributing editor to The IRE Journal, a book author and former executive director of IRE.



Pen & Sword: A Journalist's Guide to Covering the Military

By Ed Offley
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www.marionstreetpress.com;
708-445-8330, 304 pages,
\$24.95

STACKED DECK FAVORS GOVERNMENT SECRECY

Better Government Association study of state public records laws – and survey of IRE members – shows citizens are at disadvantage.

BY CHARLES DAVIS

FOR THE IRE JOURNAL

The results are in, and they're not pretty.

A sweeping study of state FOI laws by the Better Government Association reveals that most are weak and easily undermined. The haphazard construction of state public records laws has resulted in an information gap that significantly affects the citizenry's ability to examine even the most fundamental actions of government, the study found.

BGA researchers studied all 50 state public records laws, and no state earned better than Nebraska's B-. Eleven states earned F ratings, with the rest scattered between C and D. The results are dismal, the details depressing even to hardened FOI observers who knew the national situation was grim.

The study was prompted by years of run-ins with obstinate public officials. BGA investigators have been refused requests to examine state contracts and performance measures, denied everything from documentation of ambulance response times to the documents reviewed when making budgeting decisions, and ignored by officials in nearly every major office at one time or another.

The BGA decided to find out where its home state of Illinois stood in relationship to other states. Could Illinois be an aberration in an otherwise sunshine-laden country? Well, no.

Working closely with IRE, the BGA surveyed 191 investigative journalists across the U.S. The investigators asked these IRE members to rank their satisfaction with the FOI laws in the state where they practice their craft. The findings were entirely consistent with the BGA's overall analysis of the laws. The BGA/IRE survey found that:

- Journalists across the country believe that open records are important to doing their job by a

ratio of nearly 31:1.

- Journalists across the country believe that public officials abuse their discretion when responding to FOI requests by a ratio of 11:1.
- Journalists across the country do not feel confident that legitimate FOI requests will be honored by a ratio of 11:1.

The survey also found journalists believe that the cost of litigation is a deterrent to fighting improper FOI refusals, that public officials would not be held accountable for violations, and that important information goes unpublished as a result of weak state FOI laws.

To study the relative strengths of the FOI laws, the BGA created a "gold standard" against which the laws of each state could be objectively and accurately measured. This gold standard was then developed into a simple, understandable report card, grading each state's performance on a four-point scale.

The study measured several criteria regarding access to information. The first three criteria that the BGA studied in assessing the strength of each state's open records act are procedural, involving the process the requesting party must undergo to gain access to public records. The BGA's concern with these procedural requirements is that a lengthy and burdensome process is likely to discourage citizens from making requests and seeking enforcement of the statute, which will result in less disclosure of public information. To assess the procedural obstacles facing FOI requesters, the BGA studied response time, the process of appealing FOI denials and expediency, or the means to give a case priority on a court's docket in front of other matters because of time concerns.

Although most states did well in this section of the survey, managing to respond within legal limits, rarer are any sort of detailed, effective

appeals processes. Citizens often have their requests denied and the only way they can gain access to records is by appealing the agency's denial.

The appeals process

If citizens are able to appeal in a cost- and time-efficient manner, in the forum of their choice, citizens are more likely to challenge an agency's denial. The BGA's method of grading this criterion is based on three elements: choice, cost and time. A petitioner should be able to choose the body that hears the appeal. The appeals process also should provide for administrative remedies to control the costs and time of appealing.

States with statutes that do not provide for an appeals process do not receive any points. These states fail to inform citizens that the denial may be reviewed, and maybe reversed, by a higher authority. Allowing a petitioner to appeal a denial to court receives one point. Appealing directly to a court will assuredly be the most expensive and take the most time. Citizens are less likely to challenge a denial if an appeal means several years of litigation costing thousands of dollars.

Two points were awarded to states that require petitioners to first appeal to the director of the agency denying them access, then to an ombudsman and only then to court. By requiring a petitioner to exhaust both administrative remedies before allowing access to the court system, these states provide the petitioner no choice of forum. However, these states do provide for administrative remedies that may reduce the cost of the appeal if a favorable ruling can be achieved before going to court. By appealing first to the agency head and then to an ombudsman, there is at least a chance of getting a favorable decision in a cost- and time-efficient manner. The presence of a legislatively designated entity, either the head of the agency or an ombudsman, as an appellate avenue before resort to the courts earned states three points. States offering petitioners the choice of appealing to the head of an agency or an ombudsman, or going to court, received four points. Finally, states allowing citizens to pursue the channel of appeal of their choice received five points.

The results show that while many state public records laws allow citizens to pursue the appellate channel of their choice, some states force citizens to turn to the courts should they wish to appeal a records denial.

Expediency and penalties

Expediency means to give a case priority on a court's docket in front of other matters because of time concerns. The BGA examined each state statute to determine if a petitioner's appeal, in a court of law, would be expedited to the front of the docket so that it is heard immediately.

States that do not provide for expediency in their public record statute received no points. States requiring a case to be heard within 21-30 days after filing received three points. States received four points if they required a case to be heard within 11-20 days after filing. Finally, five points were awarded to states that require a case to be heard within 10 days.

In the penalty category, the two criteria the BGA used to weigh the strength of each state's public records act focus on the penalties levied against an agency found to have violated the public records law.

The two penalty criteria are: 1) whether the court is required to award attorney's fees and court costs to the prevailing requestor; and 2) what sanctions, if any, the agency may be subject to for failing to comply with the law.

The first penalty criteria the BGA used was whether petitioners were entitled to attorney fees and court costs in the event they prevail in their action. Allowing for such an award serves two purposes. First, it assures petitioners that their expenses will be covered in the event they are successful in their appeal, encouraging people to challenge an agency's denial. Second, awarding fees and costs to the prevailing petitioner will provide a deterrent to agencies and promote compliance with the law.

Language is critical here; the BGA's grading scale for fees and costs contains phrases that warrant explanation. For example, "may" means that fees and costs are to be awarded at the judge's discretion, while "shall" means that fees and costs must be awarded to the prevailing petitioner. A statute that states fees and costs "shall" be awarded will be stronger than a statute that provides fees and costs "may" be awarded. There also is a major difference between "prevail" and "substantially prevail" in terms of recovering attorney fees. "Prevail" refers to a situation where the petitioner wins on all points, and is given access to all the records requested, while "substantially prevail" refers to a situation where the petitioner wins on only some points, loses on other points and is only given access to some of the requested

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The Model Open Records Act

The BGA has read all 51 statutes that have been graded in this study. The five criteria and grading scale used to rank the states have been derived directly from those 51 statutes. Among all 51 statutes, the BGA found provisions it feels would best promote the policy of requiring open government records. However, the BGA was unable to find a statute that exhibited all five of these provisions. In this study, the highest grade that was given out was a "B-" to Nebraska. The following is an example of an "A" statute:

- Response time. An agency that receives in writing a request to examine any public records shall respond to such a request within seven working days. The response shall either communicate that access to the record will be granted or that access is denied.
- Appeals: Upon any denial of access to a government record, the requestor may appeal that denial to any of the following: the district court of competent jurisdiction; an open records commission; the attorney general; or the head of agency that has denied access.
- Expediency: A matter on appeal to a district court from a denial of access to a record shall be expedited on the court's docket and heard within seven days.
- Attorney fees and costs: A petitioner who prevails or substantially prevails in a court of law against an agency that has denied access to an open record shall be awarded the costs of litigation and attorney fees.
- Sanctions: Any person who is found in a court of law to have violated the statute may be subject to a civil fine not exceeding \$2,500, and shall be guilty of a misdemeanor punishable by a fine not to exceed \$2,500 or 90 days in jail or both, and may be subject to termination.

Rank	Category	GPA	Total Points
1	Nebraska	2.75	20
2	Minnesota	2.50	19
3	Vermont	2.50	17
4	Louisiana	2.50	16
5	Arkansas	2.25	19
6	Michigan	2.25	17
7	Virginia	2.00	17
8	Utah	2.00	16
9	Hawaii	2.00	15
10	Idaho	1.88	14
11	Kentucky	1.75	16
12	Georgia	1.75	14
13	West Virginia	1.75	11
14	South Carolina	1.75	11
15	Iowa	1.75	10
16	Rhode Island	1.63	13
17	Maryland	1.50	15
18	Wisconsin	1.50	12
19	California	1.50	11
20	New Mexico	1.50	10
21	Connecticut	1.38	13
22	District of Columbia	1.38	11
23	Florida	1.25	14
24	Massachusetts	1.25	9
25	Illinois	1.13	12
26	New York	1.13	10
27	Oregon	1.13	8
28	Colorado	1.00	10
29	Kansas	1.00	9
30	Maine	1.00	9
31	Indiana	1.00	8
32	Missouri	1.00	8
33	New Hampshire	1.00	8
34	Texas	1.00	7
35	Mississippi	0.75	9
36	Nevada	0.75	7
37	Oklahoma	0.75	7
38	Washington	0.75	7
39	Ohio	0.75	6
40	New Jersey	0.75	5
41	Delaware	0.50	8
42	North Dakota	0.50	8
43	North Carolina	0.00	5
44	Tennessee	0.00	3
45	Wyoming	0.00	3
46	Arizona	0.00	2
47	Alaska	0.00	1
48	Pennsylvania	0.00	1
49	South Dakota	0.00	1
50	Alabama	0.00	0
50	Montana	0.00	0

DETAILING QUESTIONABLE POLICE SHOOTINGS REQUIRED EXTENSIVE SEARCH OF DOCUMENTS

BY DAVID S. FALLIS

THE WASHINGTON POST

Shortly after taking over the police beat in Prince George's County, Craig Whitlock wrote about officers shooting and killing a man. Weeks later, he reported on another. And then another. In the last eight months of 1999, police shot eight people, killing five. Police were tight-lipped about the shootings, but insisted one thing: cops were justified. Whitlock began to investigate.

The end result, more than a year later, was the publication of a four-day series by Whitlock and me about gunplay and in-custody deaths involving Prince George's police. Despite promises of reform from county leaders, little had changed to shed the department's longstanding reputation for brutality.

The *Post* found that officers had shot 122 people from 1990 through mid-2001 and that each was ruled justified. No officer has been disciplined, yet almost half the victims were

unarmed and committing no crime. The department attempted to cover up details of many of the deaths at the hands of police. One person, whom police claim they shot in self-defense, was actually unarmed and shot in the back while face down on the ground. Another man was shot as he relieved himself by the side of the road. And, police shot a paralyzed, unarmed man as he sat in his wheelchair. Stacked up against departments nationwide, county police shot and killed people over the decade at rates that far exceeded those in police departments serving the 50 largest cities and counties.

The single biggest challenge to reporting the series was the absolute refusal by Prince George's police and the county's lawyers to disclose *any* information about these cases. They refused to provide the most basic details – including a complete list of the people they had shot. County lawyers wrote that it would

be “contrary to the public interest” to release certain documents. The *Post* sued the county for records. In the meantime, we turned to other sources, including autopsy reports and worker's compensation records, to investigate.

Questionable shootings

The reporting began by identifying all police shootings that left a person injured or dead since 1990. The *Post* had written about some of the more high-profile cases. But many shootings had been relegated to a brief in one of the county newspapers, if noted at all. Because the newspapers are not indexed, Whitlock spent months scanning years of microfiche at regional libraries to compile a list of police shootings.

After identifying more than 100 victims from news clips, the *Post* requested autopsies of those who had died. The medical examiner's findings sometimes contradicted the brief “official” version offered by police in the shooting aftermath. Police said some of those who were killed had attacked officers, but records show they were shot in the back. People whom the police had described as out-of-control, high on cocaine or PCP were drug-free when they died. Clearly, there was a much larger story.

We reported all we could about each of the 122 shootings, building files on each and summarizing information in computer databases to help identify patterns. We tracked down the victims who were wounded and the families of those who had been killed. We visited shooting scenes, knocking on doors to locate witnesses. In several cases, we found people who said they saw the shootings unfold, but were ignored or never interviewed by detectives. While many we contacted were helpful, many were reluctant to talk because they feared police reprisal.

In the courthouse, criminal charges filed against individuals who were shot but survived were valuable for details about the shootings. Charges sometimes included supporting affidavits from officers, which provided a brief narrative of the events. Most of the 75 people who survived being shot by police were charged with a crime, such as resisting arrest. But often, the charges were later dropped – a red flag for us that the basis for the shooting was questionable.

Civil actions also were a key source of information. In some cases, the families of individuals shot by police had sued the department. The suits often were dismissed, but some attorneys in these cases, through discovery, had acquired internal police documents about

Hamil Harris | The Washington Post



Prince George's County Police Chief John S. Farrell bows his head and hold hands with community leaders outside Jordan Baptist Church in Capitol Heights, Md. Prayers were part of a rally to celebrate what the leaders say are positive changes being made by the police department to improve relations with the community.



Charles Grant, brother of Kendall Grant, who was killed across the street from the family home by a Prince George's County police officer.

the shootings and the disciplinary records of the officers involved. These documents were usually not part of the courthouse files, but attorneys in many cases were willing to share them with the *Post*.

These records were indispensable. They gave us insight into internal police workings, the department's laissez-faire attitude toward problem officers, and helped to fill in gaps about individual shootings and broader patterns. Through these records we found that officers involved in shootings often did not submit statements to department investigators about the case for weeks or even months. Sometimes statements given by separate officers involved in one shooting were identical, word for word –

down to the scratched-out mistakes.

An unlikely source for information was the Maryland Worker's Compensation Commission. In the course of scouting for leads, we compared a payroll database of Prince George's police officers against a database of more than 600,000 compensation claims. Dozens of officers had filed claims contending they suffered from "post-traumatic stress disorder" as the result of shooting someone. The wealth of paperwork helped confirm the officers involved and the times, dates and places of shootings, but more importantly led us to statements from the officers involved. For example, five officers who shot and killed a 16-year-old girl who suffered panic attacks all filed claims. In the records was a

step-by-step retelling of the event – including the teen's plea for officers to shoot her.

Finding the norm

Beyond the shootings, we also investigated other deaths in police custody. Police again refused to identify the cases, but we had found more than 10, and suspected there were others.

Mining worker compensation records, we came across a claim from an officer who said he had suffered emotional stress after a prisoner died in his handcuffs. The claim did not identify the prisoner, but it noted the date of the man's death. Scanning court probate records for deaths that occurred on that date, we found the name of the

CONTINUED ON PAGE 18 ➤

THE WEB

The *Post* series and its supporting material can be found at:

www.washingtonpost.com/wp-dyn/metro/md/princegeorges/government/police/shootings.

The chart showing comparative shooting rates of all 50 agencies can be found at:

www.washingtonpost.com/wp-srv/metro/specials/pgshoot/shootstats.htm

CONTINUED FROM PAGE 17

dead man. He was the brother of the officer who had handcuffed him. This, we learned, was part of the reason police concealed the death from the public. But the department had gone further to keep it secret: Police never notified the state's attorney who is supposed to review cases for potential criminal charges.

After initial reporting on the 122 shootings and the 12 in-custody deaths was complete, we winnowed cases to those that we intended to write about. There were more than 50 officers directly involved in cases in which we were focusing, and we wanted to speak with them all. Police officials rejected all our requests to interview individual officers. Therefore, we wrote a letter to each officer outlining our specific questions, made phone calls, and visited some at home. A few said they wanted to talk off-the-record, but had been told by department commanders not to. In the end, only a few spoke on the record.

There were many troubling cases to write about, but we had broader questions about Prince George's police. Were they an anomaly or were they the norm? How did the department's rate of shootings stack up when compared to other, large metropolitan police forces? The *Post* in 1998 examined shootings by D.C. police, and after surveying 25 of the largest city departments, found that per capita, its shooting rate outpaced the rest. To put Prince George's gunplay into context nationally, we expanded upon that groundwork (with essential guidance from other *Post* reporters and editors). We broadened the survey to include police agencies in the 50 largest city and county jurisdictions (on average for decade), and polled for additional years. This was an entirely separate track of reporting.

We began with written, detailed requests for information about all shootings from each department, followed by telephone calls and interviews. The level of cooperation varied dramatically from agency to agency. Some resisted, others boxed up internal affairs records and shipped them to us. In the end, we documented more than 2,100 fatal shootings by police from 1990 through 2000, vetting them through news reports, interviews, state police organizations and other sources.

It cannot be emphasized enough that direct reporting on each individual department is the *only* way to obtain accurate information on police shootings. There is no single, reliable authority that tracks the issue. Though the FBI asks departments to voluntarily report "police justified homicides" to the agency for statistical

Michael Lutzky | The Washington Post



Winona Randall with her son, who was unarmed and shot eight times by Prince George's County police entering her home.

purposes, we found FBI computer records on fatal police shootings over-counted, under-counted and failed to include entire agencies, such as Miami-Dade County. In only a handful of the 50 cities were the FBI numbers dead on.

As we surveyed, we also reported the numbers that would serve as yardsticks for comparison. Criminologists with whom we consulted emphasized that there was no single perfect measurement, and it was best to consider as many factors as possible for as many years as possible. In the end, we decided to measure rates by population, sworn personnel, violent crimes reported, murders, arrests for violent crimes, and all arrests. Numbers for each jurisdiction for each of the 11 years were culled from the census, FBI's uniform crime reports, state police agencies and from crime analysis sections in individual departments. Again, we vetted the sources of information against one another and other sources, such as DOJ publications.

All of our findings, which we tracked and computed in databases, were averaged over the decade, to allow for missing years of information or particularly violent or peaceful periods within a jurisdiction. Ultimately, Prince George's was No. 1 for fatal shootings per officer and No. 1 when measured by all arrests. When measured per 100,000 residents, the county was No. 5, with the District remaining No. 1. Compared to all other agencies, however, Prince George's ranked highest across the board when the six measures were considered collectively.

Tough to question

The rankings, I should stress, are only indicators to look deeper within a department. Academics and experts cautioned that a high rate of shootings is a red flag, and not necessarily an indictment. A city with 300 fatal police shootings might be high in number, but if they all were the end result of someone pointing a gun at a cop, it's tough to question. In Prince George's, when we looked at individual shootings we found problems layered upon problems.

Like any other large project, we were buried in a flurry of last-minute reporting and editing. Fact checking took weeks. Ultimately, gleaned from the more than 500 interviews and thousands of pages of documents, were more stories and materials than space. Much of this we put on the Web. There, we published extra stories, copies of internal police files we obtained, tapes of 911 calls that led to fatal shootings, and aggregate shooting data and rankings for all 50 agencies.

In the series' aftermath, the FBI opened investigations into many of the shootings. The county executive's office announced numerous reforms. And, the *Post* won most of its lawsuit for police records – although county attorneys have appealed the ruling.

David Fallis is a staff writer on the metro investigative team at The Washington Post.



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INS ABUSES

Series exposes corruption, ineptitude and racism

By Brent Walth and Rich Read
The Oregonian

Her fellow inmates called her "the girl who cries." The 15-year-old Chinese girl spent eight months living with violent offenders in Portland's juvenile jail in 1999, even when she had the right to walk free.

The U.S. government had granted her asylum. Two months later, however, the Immigration and Naturalization Service still kept her locked up.

Julie Sullivan wrote a story for *The Oregonian* about her plight and that of five other jailed teen asylum-seekers. Within six days, the U.S. Immigra-

tion and Naturalization Service placed the girl in a permanent foster home and found relatives or more appropriate shelter for the others.

Four months later, Rich Read acted on a tip that INS agents at Portland International Airport were rejecting arriving Japanese passengers on visa technicalities. Read tracked down victims, including a Chinese businesswoman who was strip-searched and jailed. He reported that the German wife of a U.S. citizen was deported after the INS tore her away from her breastfeeding child.

Readers voiced outrage. An Asian news service dubbed our city "Deportland."

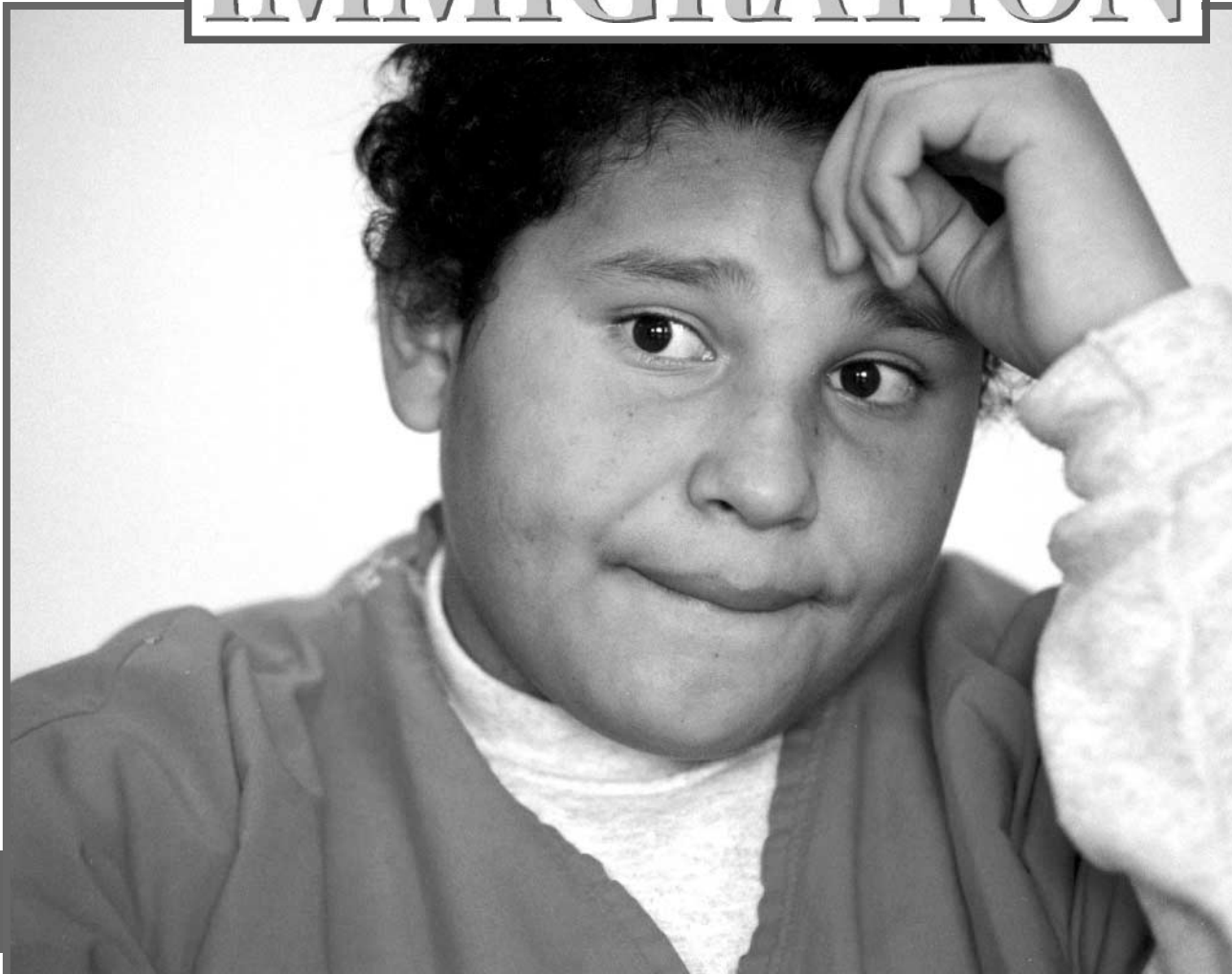
The local INS director stepped down.

More tips came in from around the country, describing similar abuses elsewhere. Sullivan and Read, sensing a bigger story, asked Kim Christensen and Brent Walth to join in.

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PUTTING A FACE ON IMMIGRATION

Michael Lloyd | TheOregonian



Angel Avila, 15, called 'The Cherub' in the Los Angeles juvenile jail, is a native of Honduras, a survivor of Hurricane Mitch, and an INS detainee.

INVISIBLE LABOR

Immigrants exploited, endangered in the workplace

By Thomas Maier
Newsday

When five immigrant workers fell to their death in October in a New York City scaffolding collapse, the root causes for this disaster were quite familiar to *Newsday* readers. Only three months earlier, a *Newsday* series about the exploitation to America's immigrant workers showed that New York suffers the nation's highest rate of immigrants killed on the job, and that more than 870 immigrant deaths around the nation during the late 1990s were never investigated by the government.

Immigrant workers are the invisible labor force in America's economy. Often performing jobs nobody else wants, usually for low pay, they are killed on construction crews, shot for cash as late-night store clerks, and crushed, impaled or electrocuted while working as landscapers. At a time when U.S. workplace deaths are generally declining, immigrant workers – many of them here illegally – are being killed on the job in ever greater numbers, especially the new wave of undocumented workers from Latin America and Asia.

Written in narrative form, the first day of the five-part *Newsday* series examined this growing national problem through the lives of two young men – both illegal immigrants from El Salvador – who died at a Long Island garbage plant. In other parts of the series, the newspaper showed how government agencies have failed to enforce laws that would protect the health and safety of immigrants, and to provide timely compensation for victims and their families.

A tough story

For journalists with tighter deadlines and fewer resources, the task of “documenting the undocumented” – telling the story of this exploitation of immigrant workers – can be quite difficult. *Newsday's* 10-month project relied on hundreds of interviews and government documents, computer-assisted reporting, and in-depth international reporting from El Salvador to expose one of the most blatant health and safety abuses in America's

workplace today. But official records about these workers can be very hard to find. And family and friends may be unwilling to talk.

Here are some suggestions for investigative reporters of where to look and how you might tell the story of immigrant workers exploited and killed in your community:

- Look at the number of immigrant deaths. In states with large immigrant populations – such as Florida, Texas, New York and California – fatal on-the-job injuries often disproportionately involve immigrants. By last year, workplace deaths among Hispanics had jumped 53 percent since 1992, and more than doubled in several job categories such as construction day laborers. The most accurate survey of these deaths is taken by the U.S. Bureau of Labor Statistics, which collects information from federal, state and local sources, such as police, hospitals and medical examiners. The overall survey of U.S. workplace deaths can be found at www.bls.gov and a detailed analysis of immigrant deaths in your area can be requested from BLS's Census of Occupational Fatalities office in Washington, D.C. Bear in mind that BLS does not release any names of these victims. (*Newsday* filed an extensive FOIA appeal for these names and lost.)

The U.S. Occupational Safety and Health Administration (OSHA) does keep a database with the names of those killed in fatal occupational injuries that the agency investigates. In most jurisdictions, however, OSHA only investigates a fraction of all worker deaths. Immigrants who are killed are usually among the most likely to be missed and never reviewed by the agency. Nationally, our review found at least 874 immigrant worker deaths during a six-year period that were never examined by OSHA's safety investigators, including 202 fatalities in New York state.

By analyzing this data, reporters can quickly get an idea of how often immigrant deaths are being missed and in what industries these workers are most likely to die. This will give you the broad outline for your story, but the most gripping aspect will probably be found in the lives and deaths of the workers themselves.

- Tell the stories of undocumented workers killed on the job. Even the names of victims can be misleading. In 1998, *Newsday* printed a short item about a “Filodelfo Moran, age 21,” who was killed in a Long Island garbage recycling plant. When another garbage picker was killed at the same plant less than two years later, our newspaper repeated “Filodelfo Moran” as the name for the first victim, just as the police press release stated. Only one problem: this wasn't the victim's real name.

A careful check of documents, and later interviews with relatives, showed the victim was actually an undocumented worker named Fredi Canales, who at age 16 got the job at the dangerous garbage plant and died days after his 17th birthday. OSHA's database still identified him as “Filodelfo Moran,” but it was local surrogate's court documents, which the family filed to receive a death benefit, that revealed his true name as well as the local address of his relatives. Thus began a journey that eventually took us to the mountains of San Salvador where we interviewed and photographed Fredi's mother and father, who told us the dramatic story of his illegal

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Working with our editor Amanda Bennett, we launched a national investigation of the INS.

Harsh measures

Our series didn't tackle immigration policy itself, but looked at how the agency responsible for protecting the nation's borders treated foreign visitors, immigrants and refugees.

Four months later, in December 2000, *The Oregonian* published our six-part series, "Liberty's Heavy Hand," which exposed corruption, ineptitude and racism in the agency that guards America's borders.

We want to share the lessons we learned investigating the agency in hopes other reporters can better understand the INS.

We also want to note how those lessons relate to the significant changes with the INS since our series ran. The Bush Administration has proposed sweeping reforms of the INS, and the Sept. 11 terrorist attacks have put the INS's role as a front-line security agency under closer scrutiny.

First, here's what our reporting found.

In 1996 Congress passed and President Clinton signed two "reform" laws that imposed harsh measures against some immigrants.

PUTTING A FACE ON IMMIGRATION

The laws often break up families.

One change made imprisonment mandatory for thousands of immigrants who formerly could have posted bond while their deportation cases were pending.

Today, they're jailed indefinitely, sometimes for years. The law took away the power of federal judges to order the INS to release people improperly jailed.

The law also eliminated due-process rights and barred many immigrants from the United States for as long as 10 years over problems they previously could have settled for a fee.

Among the harshest provisions of the 1996 law is one that allows the government to reach back in time and use crimes that can be decades old and of a minor nature as grounds for deportation.

The way the INS carries out the law is troublesome. The agency keeps about 20,000 people a day in jail.

But where? When Sullivan first asked that question of the INS, the agency couldn't say. Of the 128 FOIA requests we filed, she sent 39 to local INS offices for information on jails that INS headquarters couldn't provide.

We found the INS kept its detainees in a secretive and poorly monitored network of state prisons and county jails where many are subject to abuse. The INS often loses track of them and sends them from jail to jail – often far from their families and lawyers.

The INS bungles many immigration cases, with grave results, even for U.S. citizens. Christensen found one citizen who languished in INS detention for six weeks, forgotten, until a visiting nun helped him prove his citizenship. Walth found the INS deported a Chicago man to Mexico within hours of stopping him at O'Hare International Airport, without giving him a chance to prove his citizenship, as the law requires.

We found corruption, too. In the Portland office, one agent stole fees paid by immigrants to feed her gambling habit. The Portland office also tolerated racism and sexism and the long-held practice of INS officers hiring prostitutes when they went out of town on business. Meanwhile, INS ranks have included smugglers, drug dealers, rapists and murderers, agents who extort payments or sex from immigrants in exchange for staying in the United States.

Besides shaking up the local office, the series shed light on a deep-rooted national

problem: The INS cannot reconcile its dual missions. Is it a service agency, dedicated to helping immigrants? Or is it a law enforcement agency, cracking down on illegal aliens?

In November 2001, the Bush Administration proposed a key reform that struck at the heart of the problems we had discovered: splitting the agency in two, separating enforcement from services.

And it proposed doing away with the decentralized fiefdoms that allowed local district directors to operate with little accountability and great inconsistency.

INS abuses

The INS has received its share of criticism after the terrorist attacks, and the Bush administration has responded to the criticism by

Resource Center

You don't have to live in a border town to find a good immigration story. Tipsheets from the IRE Resource Center can provide guidelines to finding good stories. Visit www.ire.org/resourcecenter/ or call 573-882-3364.

- The Oregonian reporters advise following up on cases of split families, expedited removal, asylum seekers, detention, retroactivity. Plus, look into the A-files – the key record of an individual's dealing with the INS (requires permission from the individual). Find sources ranging from immigration attorneys to local jails and prisons. Also included: a hefty source list for both local and national stories.

Brent Walth, Richard Read, Julie Sullivan, Kim Christensen, Tipsheet No. 1438

- Documents, Web sites and other sources helpful for reporters investigating immigration courts.

Lisa Getter, Tipsheet No. 1436.

- Seven trends in immigration that any reporter can tackle including deportation for minor crimes, deportations for old convictions, lifers, deportation of people with citizenship claims, inadequate review, illegal re-entry, the illegal immigrants in jail but not deported.

Lise Olsen, Tipsheet No. 1437

You're invited

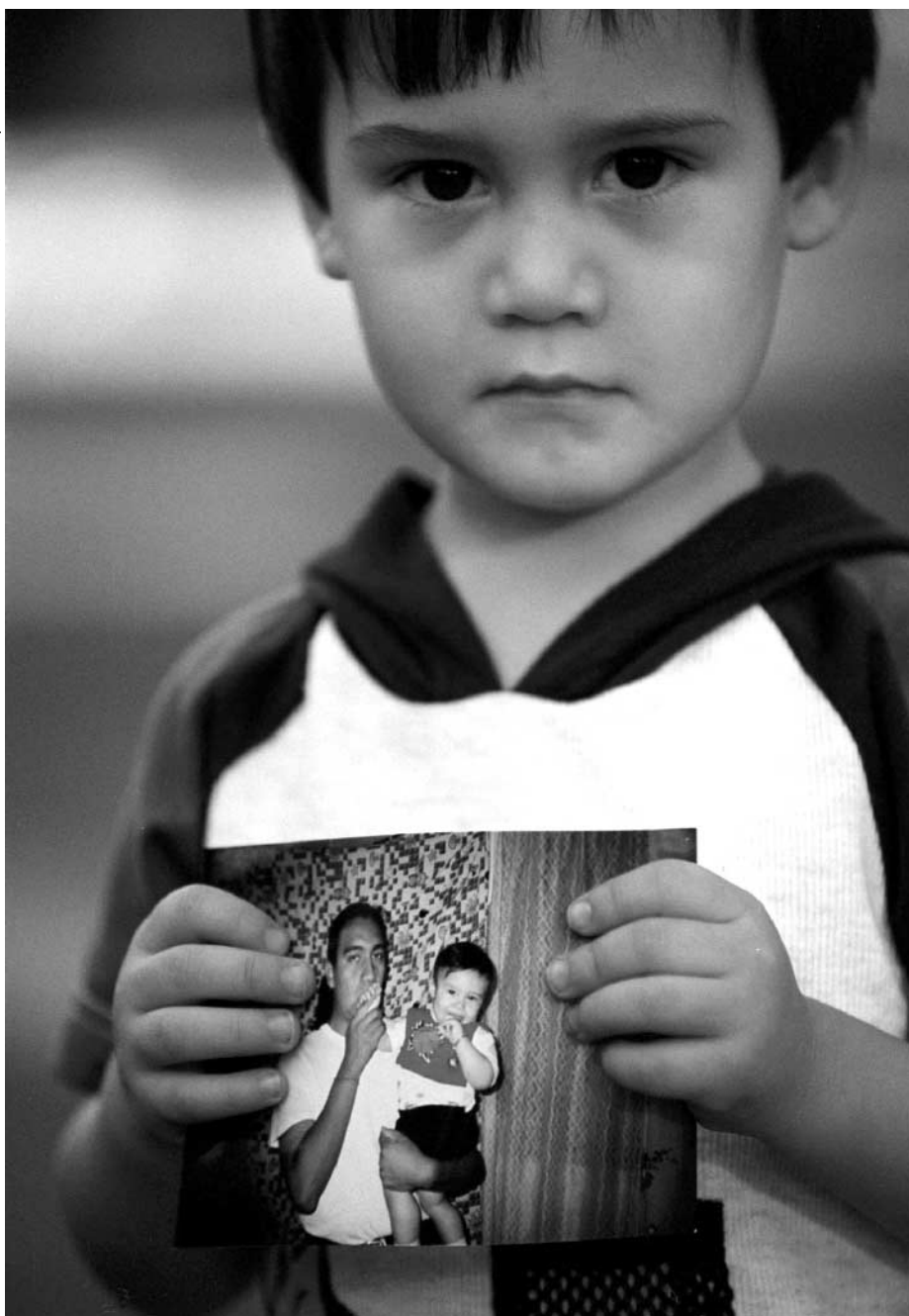
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Alex Gonzalez holds a picture of his father Luis kissing Alex's hand. Alex was 6 weeks old when Luis had to leave the United States for Mexico.

cracking down on international students and by increasing INS power to secure the border.

But many lessons we learned pre-Sept. 11 still hold true:

- Finding victims of INS abuses takes persistence, creativity and patience. The INS instills fear in so many people that finding someone willing to go on the record can be extremely difficult. Their lives, families and jobs are often at stake. For every case we wrote about, we knew of many more in which people involved

were too fearful to talk, even after their cases with the INS had been settled.

- Once you find someone willing to talk to you, ask to see their "A-File" – the "A" stands for alien – the key record of their dealing with the INS. The INS won't release it without the person's permission. If the person dealing with the INS has an attorney, the lawyer can help.
- Not every case is "perfect." Many immigrants run into trouble with the INS because of

their own actions, whether through innocent mistakes, by intentionally overstaying their visas, or after run-ins with the law. These complex cases often provide an accurate picture of how people get caught in the INS machinery.

- INS secrecy is nothing new. After the Sept. 11 attacks, many journalists have learned about the INS' secrecy doubletalk: The agency on one hand talks of protecting its detainees "privacy," while on the other it denies those same people civil rights. The secrecy protects the INS, not the other way around.
- Federal court records can help pierce the secrecy. Many detainees seek relief from federal judges. The records helped Walth when INS officials claimed – untruthfully – one long-term detainee was a felon waiting for deportation. Using court records, he learned that the detainee was a Sri Lankan asylum seeker unnecessarily jailed for nearly four years.
- The best sources came from outside the INS: immigration lawyers; ethnic and immigrant groups; local consulates; local companies that rely on foreign workers; national human rights and immigration advocacy organizations; local port officials; local law enforcement agencies; county jail officials; and religious and aid organizations, which help immigrants settle in the U.S.
- We found U.S. Department of Justice records invaluable, including those from the Office of Inspector General and the INS's own Office of Internal Audit, which investigates wrongdoing.
- Congressional records laid bare long-standing problems and the twisted path to reform: U.S. General Accounting Office reports; transcriptions of floor debates; congressional hearing testimony; and reports accompanying legislation and budget bills.

Even post-Sept. 11, the most compelling stories may still be about those who ask for nothing more than the right to live here, only to be caught up in the INS web.

About these cases, U.S. Rep. Janice Schakowsky, D-Ill., put it best when she told us, "The INS is like an onion. The more you peel it away, the more you cry."

Brent Walth is a senior reporter at The Oregonian and a member of the newspaper's investigative team. Rich Read, winner of the 1999 Pulitzer Prize for explanatory reporting, is The Oregonian's senior writer for international affairs.

CONTINUED FROM PAGE 21

crossing of the border and how he took the dangerous job on Long Island to earn money for their impoverished family.

Putting a human face on such a problem can heighten the story's impact with the public. "We know the enormous human cost imposed by occupational illness and injury – all we need to do is ask the family of workers like Fredi Canales," said Sen. Edward Kennedy (D-Mass.), chairman of the U.S. Senate Committee on Health, Education, Labor and Pensions, in citing the series at a recent Senate hearing. "There has to be more attention to immigrants, because they are our most vulnerable workers."

Finding documents on undocumented workers who were killed on the job can be extraordinarily difficult. In effect, you feel like a missing person's bureau for workers whom many experts say are "invisible" and "disposable" in our society. Hispanic and Asian immigrant support groups can be good sources to provide the names of victims in serious workplace accidents, and so can immigration lawyers or those specializing in workers' compensation cases.

A Freedom of Information request to local police and medical examiners also can lead to important case studies illustrating the health and safety problems facing immigrants in your community.

- Use narrative storytelling. Numbers and statistics

Where Immigrants Work

States with the highest percentage of foreign-born workers in 1999

State	Percent foreign-born
California	30.1
New York	23.4
Hawaii	21.5
Florida	19.9
Nevada	18.8
New Jersey	18.4
Arizona	16.1
Dist. of Columbia	14.7
Texas	14.2
Massachusetts	12.6
Illinois	12.0
Maryland	11.1
Connecticut	10.7
Rhode Island	10.1
Washington	9.5
Oregon	9.3
Colorado	8.6
Virginia	8.2
New Mexico	7.3
Alaska	6.8

SOURCE: Newsday Analysis Of Bureau Of Labor Statistics Data

Moises Saman | Newsday



Immigrants at work in the H&R Leather factory in Manhattan where a deadly fire took place.

can help make your case, but most readers will be drawn to tragic human stories of hope, suffering and abuse – the experience of so many immigrants who come to America.

Unlike immigrants from previous eras, a whole generation of immigrants today have been called "illegals," starting their new life in America under such a dubious cloud. There are many causes and reasons for this condition that must be explained to the reader. But only the details of these immigrants' lives, told in story form, can help make these people "visible" and understandable on a human level, especially those who may be oblivious to the person pruning their trees or pumping their gas.

Today's conditions for immigrants create a whole new set of extraordinary questions for reporters: What is it like to be smuggled into this country and how did you raise the money needed for the smuggling fees? How did you get the phony documents that you showed for work? When you got hurt, why didn't you or your employer report it to OSHA? Why did your employer not put your name on the company's official books when you worked 100-hour weeks on the job? Why did you fear being deported if you complained about health and safety conditions in your workplace?

- Track government failures. There are few government obstacles to stop sweatshop owners from hiring illegal immigrants and exploiting them in unsafe and unhealthy working conditions. You can check with your area's U.S. Immigration and Naturalization Service office and ask for the database of employers caught hiring undocumented workers. In New York, as in most places, it's a rare occurrence that employers get caught hiring illegal immigrants, and usually they face only small fines. But this list

Resources

- The overall survey of U.S. workplace deaths can be found at the Bureau of Labor Statistics (www.bls.gov) and a detailed analysis of immigrant deaths in your area can be requested from BLS's Census of Occupational Fatalities office in Washington, D.C.
- The U.S. Occupational Safety and Health Administration (www.osha.gov) keeps a database with the names of those killed in fatal occupational injuries that the agency investigates.
- Hispanic and Asian immigrant support groups can be good sources to provide the names of victims in serious workplace accidents. One group very involved with Mexican immigrant workers is Asociación Tepeyac (www.tepeyac.org).
- Immigration lawyers or those specializing in workers' compensation cases can be very good sources, including the ACLU's Immigrants' Rights Project (www.aclu.org/issues/immigrant/hmir.html).
- You can check with your area's U.S. Immigration and Naturalization Service office and ask for the database of employers caught hiring undocumented workers. The INS Web site is www.ins.gov.
- When immigrants face unlawful actions on the job, the National Labor Relations Board may also get involved. Decisions and some documents can be found at www.nlrb.gov, but you should also call your region's NLRB office.

PUTTING A FACE ON IMMIGRATION

COVER STORY

can give you a starting point for identifying sweatshops and troublesome employers. The INS Web site is www.ins.gov.

When immigrants face unlawful actions on the job, the National Labor Relations Board may also get involved. For instance, undocumented workers who complain about exposure on the job to toxic chemicals or attempt to unionize, can suddenly find themselves being harassed by employers. Some immigrants have even been threatened with deportation. These types of labor abuses can be spelled out in detail by looking at NLRB cases and using the testimony and documents to show what's happening to undocumented workers.

Decisions and some documents can be found at www.nlrb.gov, but you should also call your region's NLRB office.

Workplace shame

Today's immigrants have helped fuel America's robust economy with cheap labor, experts say,

Moises Saman | Newsday



Maria Audina Moran touches the grave of her dead son Fredi Canales, buried in the cemetery in Concepcion de Oriente, El Salvador. The young man died in a job-related accident at the Omni Waste Management plant in New York.

but each year hundreds lose their lives performing very dangerous tasks.

Since the mid-1990s, more than 5,000 immigrant workers have been killed in U.S. workplaces, though newspapers tend to take little note of these deaths as they occur. The shabby and often risky

treatment of undocumented workers in America is one of the most shameful aspects of a modern workplace. With the backlash against some immigrants in the wake of the World Trade Center disaster, these problems may only get worse.

But how immigrants are treated coming into this country may help determine what type of citizens they, and their children, will become. And by using various tools of interviewing, document searching and computer analysis, you can tell their story in your community.

These tragedies are far more profound when they are personal, with the kind of truths as only the re-telling of these young lives can reveal.

Thomas Maier, a longtime investigative reporter for Newsday, is the author of "Dr. Spock: An American Life" (Harcourt, Brace & Co., 1998) and is currently at work on a book about the Kennedys for Basic Books.

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U.S. CUSTOMS

More than people cross the borders

By Bill Conroy
San Antonio Business Journal

The blockbuster movie “The Matrix” includes a pivotal scene in which the lead character, Neo, is given a choice between waking up in his bed and continuing on with his life as it has always been, or staying in “Wonderland” and seeing just “how deep the rabbit hole goes.”

That scene goes a long way in explaining my experience in digging into the “wonderland” that is the U.S. Customs Service. I’ve spent the past year falling into the “rabbit hole” and still don’t know how deep it goes, but I can no longer pretend that the rabbit hole doesn’t exist.

U.S. Customs has a vast charge in safeguarding the integrity of the U.S. border with respect to commerce and national security.

The federal agency is responsible for enforcing hundreds of laws and international agreements. It collects more than \$22 billion annually from import duties and other fees, and processes some 480 million land, air and sea passengers each year.

With those facts in mind, and in light of disturbing disclosures made to the *San Antonio Business Journal* by numerous sources within Customs, I decided to move forward on a series of

stories exploring a pattern of alleged mismanagement and corruption within the federal agency, including allegations that extend back to drug trafficking nearly a decade ago.

In addition to reviewing stacks of legal filings, internal Customs documents, congressional testimony and other public records for the stories, I interviewed dozens of individuals, many of them whistleblowers – including current and former Customs supervisors, inspectors and investigative agents. The series touched on corruption issues affecting the U.S.-Mexico border in Texas, Arizona and California.

Sources within Customs came out of the woodwork as I dug into this project, with each story leading to new contacts that helped drive the next story. I had to deal with many sources within the agency on background or a not-for-attribution basis. They feared, I felt legitimately, retaliation if exposed. Still, in those cases, I secured documentation or additional sourcing to support any allegations. On more than one occasion, that documentation showed up in my mailbox anonymously.

The allegations raised by these whistleblowers boil down to an assertion that Customs is operated

through a “good-ol’-boy” system of management that is perpetuating a culture of reprisal and cronyism.

Among the Customs Service practices exposed in the series were the following:

- Customs management has a policy of shredding records used in disciplinary actions in order to keep those documents away from union officials – specifically the National Treasury Employees Union. The records being shredded are called “briefing papers,” according to legal documents obtained by the *Business Journal*. After a story appeared in the *Business Journal* about the practice, the U.S. Treasury Department’s Office of Inspector General launched an investigation into the document-shredding allegation.
- A Customs inspector supervisor in Laredo, Texas, created false drug seizure reports in the Treasury Enforcement Communications System using the names and Social Security numbers of Customs inspectors – making the reports read as though the inspectors had written the narratives themselves. The supervisor allegedly falsified as many as 16 drug seizure records for the purpose of embellishing her own record. In the wake of the *Business Journal*’s story on the falsified reports, a federal judge asked the U.S. Attorney’s Office to review the allegations.

Border terror

Information gained through the Customs investigation was suddenly cast into a new light in the wake of the Sept. 11 terror attacks.

Specifically, follow-up stories examined inspection policies related to truck and rail cargo traffic along the U.S.-Mexico border, which Customs sources say are in serious need of review. Several former and current Customs agents and inspectors said the same tactics used by drug smugglers to compromise U.S. borders could also be employed by terrorists. They backed up their claims by providing me with documentation, including statements submitted to Congress that had not been entered into the official record as well as letters written to federal agencies.

The rail cargo investigation, in particular, appeared to have hit a nerve. Two former Customs special agents as well as several other sources within the federal agency, told the *Business Journal* that rail cars rigged as “giant pipebombs” could easily be shipped from Mexico into the states. Once here, those railcars (such as pressurized tanker cars that carry an array of hazardous substances) could be moved into every nook and cranny of our nation’s rail system via telephone

From: “U.S. Customs Badge of Dishonor”



U.S. Customs agent Darlene Fitzgerald-Catalan, right, and a railroad hazardous materials specialist, hoist narcotics from a railroad tanker car using a crane. About 8,000 pounds of marijuana and 34 kilos of cocaine were removed from the car in April 1998 in Colton, Calif.

or the Internet and then detonated remotely. "These [rail] cars in general carry a plethora of hazardous material," said former federal agent Darlene Fitzgerald-Catalan. "If one or more is blown up in a rail yard, it could start a devastating chain reaction."

Wormhole in time

Finally, as part of the investigative series, the *Business Journal* took a look at alleged corruption within Customs along the U.S.-Mexico border in the early 1990s.

Public records were used to examine the activities of a multi-agency federal task force, called Firestorm, charged with investigating law enforcement corruption in Arizona. At one point, the task force had 19 cases open on alleged law enforcement corruption, one of which involved the suspicious death of a former Customs supervisor stationed along the border.

But according to whistleblowers who furnished the *Business Journal* with documents and insider sourcing, the task force was disbanded suddenly in late 1990 and its investigations were allegedly derailed and swept under the rug of history.

Still, the public record trail on this story was extensive. And thanks to a former Customs agent, the pertinent documents were assembled and sent off to me. I dug in and began tapping into the network of sources I had developed from prior stories.

The documents showed that the Firestorm task force had unearthed evidence linking two Customs inspectors working along the Arizona border to drug traffickers. The documents also contained allegations that a supervisor with the Department of Justice's Office of Inspector General (OIG) – suspected of having ties to drug traffickers – worked to derail the investigation into the inspector's activities.

I was able to verify that the Customs inspectors and OIG supervisor, who is now with a different agency, still work for the federal government, which gives the story a real hook into the present. The *Business Journal* story also attempts, through current sourcing, to shed more light on the mysterious 1990 death of the former Customs supervisor in Douglas, Ariz.

The story of the U.S. Customs Service is ongoing. To come anywhere near a conclusion, more journalists will have to jump into the rabbit hole.

Bill Conroy is the editor of the San Antonio Business Journal, which is one of 41 weekly business newspapers published by Charlotte, N.C.-based American City Business Journals.

WORKING TO MAINTAIN TRUST

By Bill Conroy

If you're interested in exploring the world of the U.S. Customs Service world, consider:

- Sources will be wary. Given the sensitive nature of the disclosures made to the newspaper by Customs whistleblowers, many asked that their identities be protected, fearing that they would otherwise face retaliation. Don't make such guarantees lightly, but be prepared to work with some sources on this basis if you want to keep the story rolling.
- Asking for written proof. Because many of the sources the *Business Journal* worked with in the Customs series are themselves investigators (government agents), they normally have access to a wealth of documentation related to their charges. Ask for this information. In most cases, they will provide it – or the documents will somehow show up in your mailbox.
- Maintaining trust. The big lesson learned in pursuing the series is that sources seeking to combat corruption within federal agencies such as Customs are willing to work with the media, if trust is established. These sources, many of whom put their lives on the line daily in doing their jobs, often find that efforts to address corruption through agency channels only serve to turn the government against them. Many view the Fourth Estate as being, truly, a last remaining check on governmental abuse of power.

For a glimpse through the Customs looking glass, check out the following Web links: former Customs inspector John Carman's Web site www.customs.corruption.com; and Darlene Fitzgerald-Catalan's self-published book, "U.S. Customs Badge of Dishonor," published March 2001 and available online through www.iuniverse.com. To read the *Business Journal's* Customs series, go to: <http://sanantonio.bcentral.com>.

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LIVES AT RISK

Emergency room lapses, apparent cover-ups revealed



BY VALERI WILLIAMS
WFAA - DALLAS

Woody O'Keefe suspiciously died from a morphine overdose while under a doctor's care.

Sixty-four-year-old Lettie McGhee lay on the gurney hovering somewhere between life and death. McGhee's body was failing, but her spirit seemed strong. Near the ailing grandmother stood an emergency room worker ready with the electric paddles to shock her heart again into beating. Over the past 45 minutes, this process had been repeated half a dozen times. McGhee was on a ventilator, but she was alive due to the efforts of the ER doctor, nurse and technician who had worked to save her. It was the day after Christmas,

the ventilator, McGhee continued to breathe on her own and have a pulse for another hour. Then, Grotti returned.

Again, according to witnesses and an admission by the physician herself, Grotti placed her thumb over the endo-tracheal tube protruding from McGhee's mouth. This was the tube that once connected the patient to the ventilator; it was McGhee's only way to get air. Eventually, Grotti told the Texas Board of Medical Examiners that she "occluded the ETT for approximately one minute." In a written affidavit, the doctor stated she did this because the "ET [tube] was prolonging the agony for the family and the [emergency department] staff who wanted the patient moved somewhere else, there was no room."

But McGhee's family claims what the doctor told them was entirely different. Wanda Ragster, McGhee's daughter, says Grotti came into the waiting room explaining that her mother was "brain dead" and urged the family not to try any life-saving measures. Ragster was unaware that no neurological tests had been done to come up with this diagnosis and that her mother had already been disconnected from life support without the family's permission – a violation of state law. Ragster also did not know that Grotti had placed her thumb over her mother's airway tube until she learned of it during WFAA's ongoing investigation of the hospital's emergency room.

Lettie McGhee's death is now one of eight questionable deaths at John Peter Smith being reviewed by Fort Worth police and a special prosecutor. In another case, a male patient of Grotti's died from an overdose of morphine. Following a series of reports by the TV station's

investigative unit last summer, the Tarrant County medical examiner changed his finding in that case from "accidental" to "homicide."

Deadly errors

It was a dirty secret among the medical staff working at the county hospital. They knew needless mistakes and staffing shortages were allowing patients to die inside the emergency room. Some doctors and nurses had even begun to covertly copy patients' charts, not wanting a record of the errors and staffing problems to disappear. But no one wanted to talk publicly – until a young physician contacted the station's investigative unit in August 2000.

Slowly, over a two-month period, producer Meridith Schucker and I corroborated the doctor's story through dozens of interviews with other emergency room staff. As more doctors and nurses grew to trust us, they allowed the I-team to review their copied files. Among our findings:

- Patients with serious medical conditions such as heart attacks, burns and broken bones were left sitting in the ER waiting room for up to 12 hours. The national average for patients waiting to be seen for any medical problem in an emergency room is two hours.
- One woman died in the ER because two heart monitors failed to work, a drip pump couldn't be found, and the crash cart wasn't stocked properly.
- The ER's former chief doctor had 22 complaints filed against him with the Texas Board of Medical Examiners within an 18-month period. Three physicians told WFAA that egregious medical errors by Dr. Nat Baumer resulted in the deaths of three patients. (One female patient allegedly died from a simple aspirin overdose on Baumer's first day at work.) Yet, hospital officials refused to dismiss Baumer. The ER chief eventually quit. In May, the Texas Board of Medical Examiners severely restricted Baumer's medical license.
- To make the ER staff account for every penny spent on patient supplies, hospital officials installed a computerized vending machine. Nurses said it could take up to 15 minutes to enter codes that would make the machine dispense the most basic of supplies, like IV drip lines. Meanwhile, staff had to stand by and helplessly watch as patients went into cardiac arrest or suffered further trauma.

Initially, the hospital's CEO attempted to dismiss our reports as the whining of a few unhappy people in the ER. But the magnitude

WFAA - Dallas



Dr. David Cooke has filed a whistleblower lawsuit against the hospital and hospital officials.

and McGhee's family anxiously waited at John Peter Smith Hospital, the county hospital to the poor of Fort Worth.

While the family was pacing and praying, Dr. Lydia Grotti, an ICU physician at JPS, was called down to the ER to admit McGhee into intensive care. Instead, Grotti declared McGhee dead, removed her from the ventilator and left. Still, according to witnesses and documents in the case, McGhee didn't die. Even without

of the problem became very clear when 26 emergency room nurses sat down for an interview with me. Many of them admitted that they had made medical mistakes with patients because staffing shortages kept them running from bed to bed.

High price paid

Our first report on John Peter Smith Hospital was broadcast in October 2000; nearly a dozen more reports have followed.

We obtained thousands of pages of documents the old-fashioned way – through inside sources. Occasionally, the unit used the Internet to track addresses of patients or to do side research on a physician's credentials. But we attribute much of the success of our investigation to the brave people who work at the hospital. Despite some of the horrifying stories of gross mismanagement and incompetence, there are many doctors and nurses who care greatly for the under-privileged clientele they serve. However, speaking out has extracted a high price from some of them:

- Dr. David Cooke tried to get the hospital's peer review committee to do something about Dr. Nat Baumer, chairman of the emergency department. When hospital administrators refused to take any action, Cooke filed a formal complaint with the Texas Board of Medical Examiners. Since filing the complaint, Cooke has been subjected to more than a dozen review hearings by hospital management. Each time, Cooke has been cleared. In a 30-year career at hospitals all over the world, the well-liked physician has never had one lawsuit or formal medical complaint filed

against him. Cooke has filed a whistleblower lawsuit against the hospital and hospital officials.

- Dr. Kevin Wacasey was an ER physician we asked to review the medical file of Woody O'Keefe, the patient who suspiciously died from a morphine overdose while under Dr. Grotti's care. In addition to Wacasey, we had two other doctors and an independent forensic pathologist review O'Keefe's file before broadcasting the story. None of the physicians who participated in the review had any connection to O'Keefe's medical care; the forensic pathologist has no affiliation with JPS hospital. Wacasey and the others came to the same conclusion that O'Keefe's death was at least suspicious and appeared to be a case of euthanasia.

Wacasey felt so strongly about O'Keefe's death that he felt obligated to contact Fort Worth police in June. The day after doing so, Wacasey was fired and escorted from the emergency room by two armed guards. The doctors' group at JPS, which fired Wacasey, denies that the reporting of Grotti played any role in his termination. Officials could not explain why Wacasey was removed from hospital grounds by the armed guards. Wacasey has since filed a lawsuit against the hospital and doctors' group.

Personnel replaced

The hospital's peer review committee, I discovered, had questioned Grotti about McGhee's death, but eventually officials did nothing. O'Keefe's death followed two months later.

Still, it was not until three days *after* WFAA's broadcast in June that Grotti was suspended from the hospital, and she remains on paid suspension. In a letter to the station, Grotti's criminal defense attorney claims an unidentified medical expert retained by his firm has concluded that McGhee was already dead before the doctor blocked her airway tube.

Dr. Grotti has refused comment on the Woody O'Keefe case.

As a result of our investigation, the hospital's CEO was forced into early retirement in December, a vice president over ER nurses was reassigned, and county commissioners demanded the replacement of half of the hospital board members.

In addition, our initial series of reports convinced the Texas Department of Health to conduct its own investigation into emergency room deaths. Besides the unnecessary demise of two patients uncovered by us, state investigators discovered two more deaths; all four occurred within a six-month period in the ER.

The JPS doctors' group attempted to get Baumer a part-time position at the Tarrant County jail treating inmates, but when the sheriff found out about the plan, he nixed the idea.

Kevin Wacasey, the fired ER doctor, has gone back to school – this time to get a law degree. He intends to specialize in malpractice law against managed care entities.

Valeri Williams is an investigative reporter for WFAA in Dallas.

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For more information on the ICIJ Award, as well as the 2001 winners and finalists, see www.icij.org or call 202-466-1300.

When the Internal Revenue Service issued rules in 1999 forcing nonprofit organizations to provide copies of their tax returns to the public, journalists who cover charities suddenly found themselves with access to a wealth of data previously only slightly more difficult to get their hands on than active police investigation files.

Before the new rules took effect, nonprofits were required only to make copies available to anyone who showed up at their offices to read them, which was fine unless the charity in which you were interested happened to be 1,000 miles away.

Now nonprofit groups must turn over their Forms 990 within 30 days to anyone who requests them. Most organizations' forms are also easily accessible through the Internet site run by Guidestar (www.guidestar.org), a nonprofit group dedicated to making information about charities more accessible.

But as *The Chronicle of Philanthropy* has discovered after years of rummaging through those IRS forms, reporters should be cautious about relying on the information nonprofits provide.

Janet Greenlee, a professor who teaches nonprofit accounting at a major university, told us that one of her research papers discovered that many nonprofits with sizeable incomes were reporting spending nothing on fundraising. That's when we decided to do a computer analysis of the fund-raising expenses reported on the 990s

CLOSER LOOK AT 990s REVEALS HIDDEN COSTS IN NONPROFIT FUNDRAISING

BY HARVY LIPMAN

THE CHRONICLE OF PHILANTHROPY

filed by the largest nonprofits for tax year 1996 (the most recent year for which computerized data were available at the time – data through tax year 1998 are now available). We reasoned that any charitable organization raising \$500,000 or more in gifts during the year must have spent something to raise those funds.

Zero fundraising

Keep in mind that the IRS definition of what must be reported as fundraising is pretty broad. It includes, of course, the cost of hiring outside soliciting firms and the salary paid any full-time fund-raisers on staff. But it also covers the portion of any paid staff time devoted to fund-raising (including writing grants seeking money from foundations); an allocated portion of the cost of

producing a newsletter if that publication includes requests for funds; the cost of publicizing fund-raising events; and the production of any fund-raising manuals or other materials.

The data we needed was obtainable from the Urban Institute's National Center for Charitable Statistics in Washington, which has CD-ROM sets of basic data filed by the nation's nonprofits. Of the nearly 5,000 organizations reporting at least \$500,000 in gifts for that year, more than 25 percent reported zero fund-raising expenses. In about half the cases, there were good explanations. The most common was that the charity reporting no fund-raising costs was affiliated with another

nonprofit organization, which handled all the fundraising. Another common reason covered the foundations formed by state universities. The schools themselves, which as government entities don't file 990s, do the fundraising, while the foundations distribute the money from the gifts. That way, the foundations legitimately are reporting zero in the fund-raising column.

But a large number simply didn't bother to report what they'd spent on fundraising. In almost every case, the organizations' audited financial statements did list the expenses, which is an important lesson for anyone covering nonprofits: Don't settle for the 990. Ask for the audited financial statements. Charities are under no legal requirement to provide those, but you should be suspicious if they refuse. Ask them what they have to hide, and suggest that it might be worth doing a story just on the fact that a public charity receiving a tax break underwritten by every taxpayer won't release its basic financial data. To be honest, we've rarely had a problem getting any major nonprofit group to provide us with its audited financial statement.

We also obtained databases from three states – California, New York and Ohio – which require all professional fund-raisers and the charities that use them to register. We found dozens of examples of charities hiring solicitors and telling the IRS they spent nothing on fundraising.

The Zoological Society of Cincinnati, for instance, spent at least \$500,000 on fundraising, including the hiring of a telemarketing company that conducted a multi-year soliciting campaign. Trinity University in San Antonio spent \$2.5 million on fund-raising over three years. Both reported zero fund-raising expenses to the IRS.

Nonprofit cover-up

Some of the explanations were priceless: One group, in a classic case of Orwellian



University of Dayton's Janet Greenlee found that nearly 15 percent of Pennsylvania charities hiring professional solicitors reported no fund-raising costs on their charity tax forms.

newspeak, told us that “to put fundraising in the column called fundraising would be misleading.” Its argument was that since all the organization does is raise money to distribute to other charities, fundraising was its purpose or mission, and spending on a charity’s primary mission is supposed to be reported on the “program services” line of Form 990. The IRS was not amused. When we passed this explanation on to a top revenue service official, he pointed out that the organization’s mission is to distribute money, not raise it, and that everything it spent on fundraising should be listed as fund-raising expenses.

The Arizona Community Foundation insisted it does no fundraising, and then sent us a copy of its newsletter, including a half-page solicitation explaining how wealthy individuals could structure bequests to the foundation.

A large number of charities pointed the finger at their outside accounting firms, saying they filled out the tax forms. Most of the major firms refused to comment, and those that did insisted their policies require precise reporting of all fund-raising costs.

In the end, though, why should anybody care what nonprofits report to the IRS? They don’t have to pay any taxes regardless, and the law gives them broad latitude in how they handle their finances. That’s precisely why regulators, journalists and the giving public should be so outraged by this behavior. As several state regulatory officials pointed out, if a nonprofit will cover up its fund-raising costs on a form filed with the IRS, what else are they being deceptive about?

Why would nonprofits go to such lengths to hide their fund-raising costs? Two reasons: 1) watchdog groups in this area rate charities based on the percentage of their revenue they spend on their programs, and if you can make it seem like as little as possible is going toward fund-raising, you come out looking better to potential donors; and 2) there are virtually no penalties for hiding fund-raising costs, because the IRS doesn’t even look at them.

The results of our investigation should be an object lesson for journalists and the general public. Examine the tax forms of nonprofit organizations with care, and apply common sense.

Harvy Lipman is the director of special projects at The Chronicle of Philanthropy, a national biweekly that covers the nonprofit world.

FOI

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records. States awarding fees and costs to petitioners that only substantially prevail will be stronger than those that require the petitioner to completely prevail in order to get fees and costs.

State statutes failing to provide that a prevailing petitioner could collect fees and costs received no points. Allowing recovery of fees and costs in the event the agency acted in bad faith in denying the record scored states one point. States allowing an award of attorney fees and costs at the judge’s discretion when the petitioner prevails received two points. States receiving three points also leave awarding fees and costs to the discretion of the judge; however, the petitioner must only substantially prevail before a judge may consider the awarding of attorney fees and costs. Four points were given to states that require an award of fees and costs to a prevailing petitioner. Finally, states requiring an award to petitioners who only substantially prevail received five points because they provide the most protection to petitioners from the outset.

Sanctions provision

The final criterion the BGA examined in assessing the strength of each state’s open record act was sanctions. The BGA looked to see whether there were provisions in the statutes that levied penalties against an agency found by a court to be in violation of the statute. Without a sanctions provision, a public

records statute means very little. It is only when an agency is punished for breaking the law that the law will be followed.

States that do not specifically punish an agency for non-compliance with the statute received no points. One point was awarded to states with statutes that provide for either criminal or civil sanctions in the event there is a violation of the law. The BGA gave two points for statutes that provided for both criminal and civil sanctions, and three points for states that provide for either criminal or civil sanctions and increase those sanctions for multiple offenses. States with statutes that provide for both criminal and civil sanctions and increase those sanctions for multiple offenses received four points. Finally, states that allowed for termination of an employee who violates the statute received five points.

Take a look at the numbers for your state, and then for other states, and you’ll come to one inescapable conclusion: state FOI laws are in desperate need of reform. From the moment a citizen walks into the state agency to make a records request to the final denial of access by a state court, each step in the process is, in most states, a stacked deck in favor of governmental secrecy. The BGA report might simply confirm what you already knew about FOI in your state, but it should serve as a catalyst for change.

Charles Davis is executive director of the Freedom of Information Center, an assistant professor at the Missouri School of Journalism and a member of IRE’s First Amendment Committee.

Legal corner

CONTINUED FROM PAGE 9

processes work is the cloak of confidentiality that surround them. So it’s a real question of policy. I think the courts and legislatures are willing to sacrifice some access in favor of another important societal goal, which is the settlement of disputes. But where one of the parties is a governmental entity, the arguments are greatest that the media should be permitted access.

Do you have an opinion as to whether it is better policy to allow access to ADR or not?

I think that, as a matter of policy, the courts have struck the correct balance between these two important competing interests – access to

dispute resolution and the societal interest in promoting early settlement of disputes. During early settlement discussions, either with or without a mediator, the parties need some space to talk frankly about their issues and concerns without fear of seeing it in the paper the next day or having it come back to haunt them in a subsequent trial. But there are harder questions. If one of the parties is a public agency, an open discussion may need to take place for the public’s benefit. And even harder questions arise when there is a great public interest in the outcome of a private dispute, such as the Firestone cases. There’s a great public interest in what happened, but there’s also a great public interest in settlement that may outweigh the interest in access.

PASSING NOTES

Judge, clerk make ethnic slurs; investigation prompts reprimand

BY KAREN DORN STEELE

THE (SPOKANE) SPOKESMAN-REVIEW

When a federal judge is accused of wrongdoing, reporters are at a disadvantage in a system that protects judges from outside scrutiny.

I learned that lesson in a difficult investigation over three years that led to a rare public reprimand last fall of U.S. District Judge Alan McDonald of Yakima for unethical conduct.

I also learned that the power of the press is sometimes what's needed to prompt the judiciary to investigate its own.

A brief paragraph in a 1997 civil rights

complaint against McDonald first piqued my curiosity. It accused the judge of retaliating against his court reporter for disclosing his habit of writing notes in court that disparaged prosecutors, defendants and attorneys.

I wanted to know why McDonald's note-writing conduct was never investigated by other judges, when the practice appeared to violate judicial conduct codes. The codes say judges should "act at all times in a manner that promotes public confidence in the integrity and impartiality" of the courts.

McDonald's accuser was Kathryn Blankenship. She was fired after testifying – unwillingly and under subpoena – about McDonald's behavior in a 1994 wrongful termination case for another court employee in Yakima. Blankenship said her rights had been trampled by a federal court system that judges others daily, but is deaf to its own internal problems.

For two years after her complaint was filed, Blankenship and her attorney rebuffed my interview requests, fearing it would prejudice their case. I persisted, and finally was allowed

to examine dozens of handwritten notes – penned by McDonald and his in-court clerk – that Blankenship had kept for years.

In one note, McDonald wrote "Ah is im-po-tent!" while a black man was testifying in a trial in San Diego.

In a Yakima trial with Hispanic defendants and attorneys, McDonald's clerk Pam Posada wrote, "It smells like oil in here – too many 'Greasers.'"

In another Yakima case, McDonald referred to labor

union representatives dressed in dark suits as "union mafia" and "gangsters."

Exempt behavior

With copies of the notes in hand, we hired a court-certified handwriting expert who verified they were written by the judge and his clerk.

I also consulted several legal experts, including Prof. Stephen Gillers of New York University, about the ethical issues raised by the notes. Gillers said they were a clear violation of ethics codes.

I interviewed two dozen lawyers who had appeared before McDonald, a millionaire Yakima lawyer and agri-businessman elevated to the federal bench in 1985. At first, few were willing to be named, fearing retribution. But I was able to match some of the notes to specific trials, aided by Blankenship, who had filed the notes with the docket sheets of the trials where they were written.

When I contacted lawyers who appeared in those trials, they were shocked by the notes and provided on-the-record interviews.

A veteran Spokane attorney also agreed to go on the record.

During a 1990 trial before McDonald, William Powell and his co-counsel had noticed a blizzard of note-passing, and had retrieved some of the notes from a wastebasket during a court recess. Powell gave me copies.

"Of all the federal judges in our region, McDonald is by far the worst-behaved, and nobody is monitoring this behavior," Powell said in an interview.

Nobody outside the judiciary has the leverage to do so. While federal judges must disclose their estimated net worth each year, they are exempt from most public disclosure laws, including the Freedom of Information Act. Federal judges also are immediately notified of any press inquiries, ostensibly for security reasons.

When I contacted the Administrative Office of the U.S. Courts in Washington, D.C., to determine whether any complaints had been filed against McDonald, my inquiry was immediately reported to McDonald and court officials in Spokane.

The next step was to interview McDonald.

For weeks, his lawyer rebuffed my requests, saying the judge would not cooperate. Through his lawyer, the U.S. District Court's head clerk in Spokane also refused to discuss why the notes were never reviewed by court administrators after Blankenship disclosed their existence in 1994.

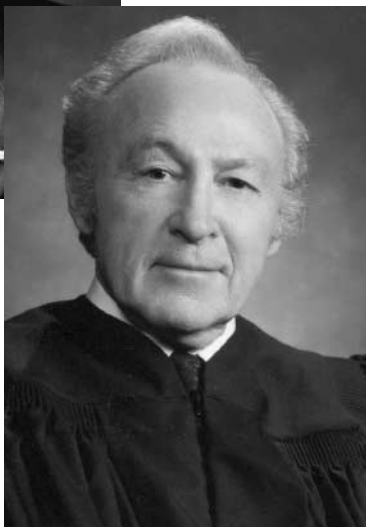
In a final effort, I took the notes to the chief judge in Spokane, arguing that their contents made

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Torsten Kjellstrand | The Spokesman-Review



Kathryn Blankenship, former federal court reporter in Yakima.



Alan McDonald, senior judge.

USING THE GAO WEB SITE

BY CAROLYN EDDIS

THE IRE JOURNAL

After the terrorist attacks on Sept. 11, one place journalists turned to for information was the U.S. General Accounting Office (GAO) Web site. The site contained reports on the federal government in the areas of airport security, anthrax and biological warfare. But keep in mind that this Web site also is a good source of information for a variety of other stories related to federal issues.

The GAO, created by the Budget and Accounting Act in 1921, keeps an eye on federal government money. It was created to improve federal financial management after World War I. The Budget and Accounting Act required

the president to prepare an annual budget of the federal government and made the GAO independent of the executive branch. The GAO's mission is to investigate how federal money is spent. Legislation since 1921 has expanded or clarified some of the activities of the GAO.

The primary source of information on the GAO Web site is the "GAO Reports" page. Reports and testimony dating back to 1975 are available through a searchable interface in this section. Reports are searchable by report number, date range, topic or keyword. The advanced search page allows searches by one or more exact phrase, name or group of words. Up to three sets of words or phrases can be

combined in one search and the search can be limited by date range. The Web site is updated daily with reports, usually within 24 hours after they have been publicly released.

As topics of interest develop, the GAO provides links that search the report database for these topics. For example, the GAO Reports page currently provides links to documents on homeland security, terrorism and airport security.

By clicking on the "Reports and Testimony" link on the GAO Reports page, a list of reports released in the past two days can be viewed with the option of listing reports released in the past week or month. Or, you can look at "correspondence" which, for example, on Jan. 7 included "The Proposed Alliance Between American Airlines and British Airways Raises

Competition and Public Interest Issues," a lengthy report that explored the economic ramifications of such a deal.

Many times the GAO is asked by a congressional member to look into issues of concern, such as food stamp fraud, or a weapons system that is over budget and behind schedule. Those reports can provide not only valuable background information, but some insight into areas of concern for congressional members intent on protecting their own interests.

By clicking on the "Status of Open Recommendations" link on the GAO Reports page, links can be found to search the GAO database on the status of open recommendations. These status reports can be searched by congressional requester or subject matter.

One feature that might be of interest to journalists is a subscription to daily electronic mail alerts. These alerts can be about "Today's Reports and Testimony" or "Comptroller General Decisions." These alerts might provide story ideas or alert a reporter that a report on a topic of interest has been added to the Web site.

Journalists can subscribe to these alerts in the "For the Press" section. This section also includes a link to a page of recent headlines of stories mentioning the GAO with links to the reports mentioned in the story. In addition, this section includes a link to a top 10 list of significant GAO work issued the previous month, with links to the reports. The November top 10 list includes a report titled "Olympic Games: Costs to Plan and Stage the Games in the United States." This section also includes a phone number for the GAO Office of Public Affairs.

Speaking of phone numbers, in the "About the GAO" section, a PDF file containing the GAO telephone directory can be downloaded. This is a large file, as the telephone directory is 65 pages.

When searching for a story idea or assigning a story that is related to a federal issue, do not forget about the GAO Web site. In particular, run a search of the GAO Reports database. You might be surprised what you will find.

Carolyn Eddis is the Eugene S. Pulliam research director for IRE. She directs the IRE Resource Center and helps maintain Web resources.

Home page: www.gao.gov
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POLICE NETWORK ABUSED

Information used for private gains, vendettas

BY M. L. ELRICK
DETROIT FREE PRESS

Police throughout Michigan have been using a law enforcement database to stalk women, threaten motorists and settle scores.

In a two-part series last summer, the *Free Press* detailed how abusers subverted the Law Enforcement Information Network (LEIN) and used it as a personal search engine for home addresses, for driving records and for criminal files of love interests, colleagues, bosses or rivals. One practice was reportedly so common it became known simply as “running a plate for a date.”

In addition, we profiled individual cases to show how the state's mechanism for disciplining

abusers provided unequal justice for victims and violators alike. Specifically, what cost one cop his job could result in a reprimand in another jurisdiction.

I received more than 100 calls and e-mails, several providing leads for follow-ups. There was not one complaint. Civil libertarians and conspiracy-minded privacy advocates alike hailed the series. It was posted on numerous Web sites and was the third most popular story in the five-year history of the *Free Press*' Web site.

And, state lawmakers, who were considering tightening rules on LEIN use before our series ran, were expected to resume deliberations. Among those who will vote on the legislation is a state representative whose husband was a victim of an alleged LEIN abuse we wrote about. (We think the legislation has a pretty good shot.)

Misusing the system

Our story began when we received an anonymous tip about a police captain whom we believed tracked down a female driver through information from the secretary of state's office, which issues driver's licenses and car plates. This officer called the woman and berated her on her answering machine for driving carelessly.

And while we had the captain's name and wanted to publish it, we could not get his supervisor to confirm the name, only to acknowledge that he had disciplined one of his commanders. Still, we went with what we had, and filed FOI requests for reports from police who were investigating in the victim's hometown at that time, hoping for more information.

Still, our tipster urged us to dig deeper, and suggested we check to see if the captain was reported to the state agency that oversees LEIN.

By following that lead, we learned that state officials were indeed reviewing the case.

On a whim, I asked how many other complaints were under investigation. The answer: about a dozen.

But officials wouldn't say more without an FOI request. That attitude, coupled with several callers who said they, too, had been abused by police who accessed their records, prompted me to FOI every alleged LEIN abuse dating back five years.

My excitement at receiving a bulky response faded somewhat when I learned it contained little more than meeting minutes from an obscure state board that reviews LEIN violations. Still, although there were many redactions, it didn't take long to see that there were dozens of allegations of police throughout Michigan misusing the system.

The meeting minutes contained virtually nothing on victims, but the cases were unique enough that we were able to pursue police reports or get police officials to identify LEIN abusers. In a fair number of cases, police reports included some information that helped us track down victims.

Once we located victims, either through information in reports, by Autotrak or www.switchboard.com, we had to convince them to talk. Most, feeling betrayed by police, were reluctant. Some hung up after I identified myself and explained why I was calling. But many cooperated after I said we were trying to expose any wrongdoing.

The meeting minute notes, while short on details, were helpful in other ways. Although the amount and quality of information changed over the years, it became clear that regulators were struggling with how to handle LEIN violators.

And, midway through the five years I reviewed, the law regarding LEIN violations changed.

This was exciting for two reasons: Some watershed case may have prompted the change, and if lawmakers held hearings on the proposed change, they likely listened to testimony from victims or experts.

Since legislative committees often require those who testify to sign in, this could provide us with a trove of potential sources and anecdotes beyond the scraps the state provided. If nothing else, I figured the bill's sponsor would have something to say on the subject.

Unfortunately, it turned out the change was slipped into another bill during legislative



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negotiations and never received a hearing. But the state senator who wrote the change provided several salient observations for one of our stories.

Building a database

One of my favorite IRE conference tips came from a panelist who recommended: “Kill the experts.” Still, I wanted some authoritative voices discussing what a problem LEIN abuse was. Yet the professors and researchers I contacted repeatedly told me we were the first to examine the problem. Fortunately, state officials who oversee LEIN tolerated rambling questions as I tried to figure out how the system worked. This was complicated because, over the five years we were looking into, the oversight changed.

But understanding what happens when LEIN abuse is alleged, and how it is dealt with, required familiarity with the LEIN culture.

In Michigan, LEIN is overseen by the Criminal Justice Information Systems Policy Council. The council acts upon recommendations made by its Safety & Policy Committee, a group of prosecutors, a judge and law enforcement and state officials. The committee asks local police to investigate reported cases and report back their findings, along with any

Kent Phillips | Detroit Free Press



The in-car computer that gives law enforcement officers access to the LEIN network. The name and information on the screen were fabricated for demonstration purposes.

proposed discipline. The committee’s only recourse if they disagree with discipline is to strip a department’s LEIN machine, which no one wants. This was particularly telling. It showed that the state has virtually no resources for investigating alleged LEIN violations and helped explain why discipline varied so widely.

Interviews with Safety & Policy Committee members supported this finding.

While trying to figure out how the system worked and tracking down violators and victims, it became clear that note cards are swell for determining whether you’ve got a story, but hard to keep straight. Even though I’m a Mac guy, it didn’t take long to get the basics of Microsoft Access down on my *Free Press* PC.

Building the database allowed me to organize the cases with useful fields such as the department where the abuse occurred, details of the case, and severity of discipline. As I learned more about each case, I added detail to my database. Mostly, I jotted notes on my printout of the spreadsheet.

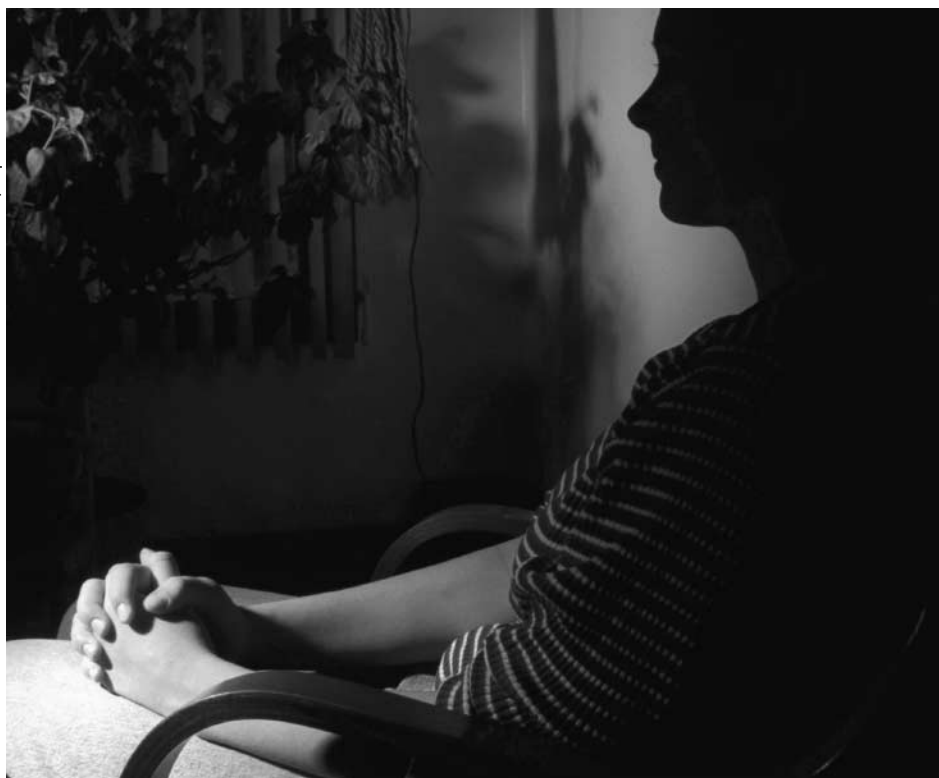
As often happens, some of my juiciest leads got wiped out by thorough reporting. Several cases that seemed outrageous based on the scant details I had turned out to be fairly mundane. Other cases outstripped my expectations.

Getting the details of the cases I zeroed in on was both easier and as difficult as I expected. Some chiefs – and more than a few investigators – were cooperative in discussing cops they felt had disgraced the job. Others – even the apparent martinets who hammered violators – stonewalled and asked for FOIs they later denied.

In some cases, other departments or state police had investigated and I was able to get

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Kent Phillips | Detroit Free Press



A woman who was harassed by an Albion, Mich., police officer she met while filling out a police report.

Police network abuse

CONTINUED FROM PAGE 35

their reports. Even with redactions, there was usually enough information to connect me with someone involved in the incident. In a few cases, prosecutors or the state attorney general had been called in and turned over police reports submitted by police investigators.

There was at least one helpful lawsuit. More than a few perpetrators also were eager to explain their actions, sometimes providing insights that were useful beyond their specific case.

Fishing expeditions

Well into my reporting, I decided to revisit one of the oldest cases involving LEIN abuses, but one with the fewest details. I was able to get the name of the lieutenant involved, who was suspended for a week without pay for running a criminal history check on his ex-wife's husband through LEIN.

More digging revealed that while the lieutenant checked the husband's driving record, a friendly FBI agent ran the criminal history check on the new husband. And, based on what they found, the lieutenant tried to gain custody of his young son. This and other marital stresses contributed to the ex-wife's decision to divorce her new husband.

The ex-wife, a former prosecutor, provided some powerful observations about the connection between romance and LEIN abuse. She revealed that the chief at the time of the violation wanted to impose stricter discipline, but relented after the lieutenant fought a lengthy suspension.

As with many investigative stories, some of our most resourceful reporting didn't make the cut. Because we had so many cases, we decided before I wrote the story that we would use only our strongest one or two anecdotes in each section to illustrate the different motives and methods for abusing LEIN.

One of the more surprising (and troubling) aspects of the story was the number of times LEIN was used for political purposes. Allegations ranged from candidates identifying supporters of their foes by checking license plates of cars bearing bumper stickers to candidates running FBI background checks in fishing expeditions for dirt.

M.L. Elrick covers Detroit government and politics for the Detroit Free Press.

Spokane Judge

CONTINUED FROM PAGE 32

it imperative to have McDonald's response.

Chief Judge William Fremming Nielsen, concerned with the court's image and credibility, agreed. He arranged for McDonald and his lawyer to be interviewed by me in his presence.

On the evening of Jan. 10, 2000, armed federal marshals waved *Spokesman-Review* City Editor Richard Wagoner and me through the basement garage of Spokane's federal building for an interview that lasted more than two hours in Nielsen's chambers.

In the interview, McDonald was combative. He said the notes were private, were never intended for the public, and were being misinterpreted. He said he is simply "earthier" than other federal judges because of his rural Yakima roots, and he wouldn't apologize for what he and his clerk wrote.

We obtained his response to every note, including the "ah is im-po-tent" note in a trial with a black plaintiff. McDonald said he wasn't mocking the man, but was referring to himself.

We published our story Jan. 30, 2000.

In a sidebar, we also examined the court's self-monitoring of internal problems, which some critics (including a former Republican U.S. attorney in Spokane) assailed as a good-old-boy system. We used judicial complaint data from the Administrative Office of the U.S. Courts to show that judges are almost never sanctioned for misconduct.

Public reacts

Public reaction to the stories was strong and immediate.

The next day, editorials in *The Seattle Times* and *Seattle Post-Intelligencer* condemned McDonald's behavior and asked for a full judicial inquest. The *Yakima Herald-Republic*, McDonald's hometown newspaper, called for his resignation.

Two days later, Judge Nielsen referred the controversy to the 9th Circuit for a judicial misconduct investigation.

In a rare criticism of a sitting judge, the 22,000-member Washington State Bar Association called on the 9th Circuit to make the results of its investigation public. (Other options open to the council would have been to reprimand the judge in private, or to take no action.)

The Democratic caucus in the U.S. House of Representatives also weighed in. Led by Rep. John Conyers of Michigan, the caucus condemned McDonald for "bringing the appearance of

improper racial, ethnic and religious bias upon the federal judiciary."

In March, The Mexican-American Legal Defense and Educational Fund of San Francisco filed a judicial misconduct complaint against McDonald with the 9th Circuit.

On Sept. 11, 2000, the nine-judge 9th Circuit Judicial Council issued a public reprimand of McDonald.

The council said the judge wasn't biased against any ethnic or religious group, but said his "offensive banter" created an appearance of bias and violated judicial conduct codes.

The council called his conduct "prejudicial to the effective administration of the business of the courts."

Ethicist Gillers said the public reprimand was extremely rare, but necessary.

"It's very important that they did this because the conduct was unacceptable, and it's important for the credibility of the federal courts to say so explicitly," Gillers said.

In a statement the day after the reprimand was made public, McDonald said he was glad the council concluded he isn't a racist. He said he hadn't intended to create a credibility problem for the court.

Washington State Bar Association President Jan Eric Peterson said the reprimand sent two important messages – that federal judges are accountable, and that disparaging remarks that appear to reflect bias "are a serious matter."

Hispanic groups in Yakima and San Francisco, however, criticized the reprimand, saying it didn't go far enough.

Blankenship eventually lost her case when an appellate court ruled that judicial branch workers have no right to bring a civil rights case against their employers. She appealed to the U.S. Supreme Court, which declined to take her case last year.

McDonald, 73, is on semi-retired "senior status." Federal law allows him to work part time while drawing his full \$145,100 salary for life.

Karen Dorn Steele is an investigative and environmental reporter for The Spokesman-Review. She has won numerous awards for her reporting, including the George Polk Award and the Gerald Loeb Award for "Wasteland," a 1994 investigation into squandered taxpayer money at the Hanford Nuclear Reservation, the nation's largest nuclear waste cleanup site. Her stories on Judge McDonald's judicial misconduct won a citation for excellence in legal reporting from the 22,000-member Washington State Bar Association last year.

Snow job

CONTINUED FROM PAGE 9

there was no market for residential development. Subsequently, two roads, funded by the federal government, were built that enhanced the value of the land owned by Myers and his partners. The challenge for us was determining just how much the land had appreciated after the federal investment.

The property had been subdivided and individual lots and tracts sold off to new owners over several years. In 1990, the land Myers acquired comprised fewer than a dozen parcels. But by 2000, as a result of all the land activity, the number of parcels had ballooned to more than 400.

To arrive at a value, our colleague Laura Karmatz pored over Summit County plat maps to trace the metamorphosis of the original acreage. She then pulled deeds, obtained hundreds of individual property assessments and inputted the data. Ultimately we were able to determine that the value of the land for tax purposes had soared from \$3 million in 1990 to \$48 million 10 years later, a sixteenfold increase.

That one statistic – \$48 million – is a reminder of how much work often is involved for just one line in an 8,000-word story.

The treasure hunt

To see exactly what the federal government was funding, we turned to one of the more underutilized sources of information in Washington – appropriation bills.

If there is a more boring form of research than combing through this kind of legislation, we don't want to know about it. At least in tax law, amid the mind-numbing jargon that Congress uses to camouflage handouts to campaign contributors, you occasionally come upon some wonderful passages.

To this day one of our favorites is on Page 545 of the Tax Reform Act of 1986. Following a section outlawing some outrageous tax shelters in the Virgin Islands, taxwriters secretly inserted a paragraph that exempted a wealthy California developer because he headed "one or more corporations which were formed in Delaware on or about March 6, 1981, and which have owned one or more office buildings in St. Thomas, United States Virgin Islands, for at least five years before enactment of this Act."

You don't usually find richly detailed entries like that in an appropriation bill. The Olympic handouts were woven into spending bills as

bland one-liners amid literally hundreds of other similarly uninformative one-liners that paid for a multitude of projects across the country. They were scattered through dozens of individual laws enacted over several years, and there was no choice other than to comb through each to find them.

As time-consuming as it is to find individual giveaways, the process goes much faster today, thanks to the Internet. Like all federal legislation, appropriation bills are available online through the Library of Congress's Web server, Thomas (<http://thomas.loc.gov>). In addition to being able to methodically go through any bill, you can search using specific terms, such as Utah or Salt Lake or Olympics.

In a District of Columbia appropriations bill for the year 2000 (one that provided hundreds of appropriations for various Washington social programs from foster care to elementary education) we came across a curious item – \$590,000 to a University of Utah weather forecasting unit "for support to the Winter Olympics." Weather forecasting? Don't federal taxpayers already pay for the National Weather Service?

Indeed they do, but that was not good enough for the folks in Utah, who wanted a custom-tailored service as well. As we dug deeper, we discovered that Olympic boosters had wrung \$1 million out of Congress for additional weather forecasting services – all "to improve the understanding of winter weather in complex terrain." There is nothing wrong, of course, with Utah wanting a gold-plated weather forecasting system. But should everyone else in the country pay for it?

The agency files

The Internet has revolutionized the transmittal and retrieval of information, but some of the best reporting techniques haven't changed. A lesson that we learned long ago is as valid today as ever: Always go to the file.

By this we mean go to the record and review the primary documents. If it's a court case, go to the court file. If it's a regulatory proceeding, go to the government agency's case file. If it's a congressional hearing, go to the transcript and read, not only the prepared statements of witnesses, but also the colloquy between lawmakers and witnesses, those off-the-cuff give-and-take remarks where so much rich detail often emerges.

Whatever the subject, there is usually a written file about it in some government agency. For us, the mother lode this time turned out to

be a thick U.S. Forest Service public file on the controversial land exchange that allowed billionaire oilman Earl Holding to swap some remote land in northern Utah for 1,378 prime acres of Forest Service land adjoining his Snowbasin Ski resort north of Salt Lake City.

Utah's Olympic boosters claimed the land was needed to host two Olympic signature events, the downhill and giant slalom. In truth, Holding had long coveted the federal land so he could turn Snowbasin into a full-fledged upscale resort.

While basic details of the congressionally mandated land swap had previously received media coverage, mostly in Utah, we looked at the issue from an angle that had attracted little attention: what would taxpayers receive in trade. And the Forest Service file, for all its bureaucratic boilerplate, yielded some real finds.

One was the appraisal report. As you might expect, the single most valuable tract was the one Holding wanted – the ruggedly beautiful Forest Service parcel with stunning views of the Wasatch range near Snowbasin. As for the land he was trading, much of it was in remote northern Utah, and the appraiser, in deadpan prose, made it clear what taxpayers were getting in trade.

Holding was trading land that included a "former stone quarry" and some parcels so isolated they had "no physical access." Thus, in exchange for land within easy reach of most Utahans, the federal government had swapped for land that most Utahans would never see. The government had, as one environmentalist put it, traded land "that could be used by people for land that can be used by animals."

Any one of the themes touched on above – the wealthy developers Myers and Holding, and the huge cost to federal taxpayers – alone would have made for a good story. But we intentionally shied away from the temptation to zero in on any one of them, no matter how interesting. In our view, the scope of the Olympic excess and greed could only be conveyed by bringing all the elements together in one story.

Donald L. Barlett and James B. Steele, editors-at-large for Time Inc., have worked as an investigative team since 1971. Their work has tackled issues ranging from nuclear waste to the dismantling of America's middle class. Barlett and Steele have received virtually every major national journalism award, including two Pulitzer Prizes, two National Magazine Awards and four IRE awards.

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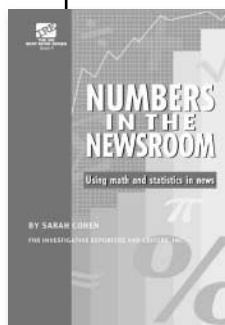
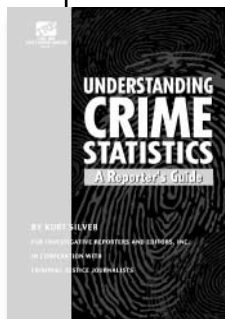
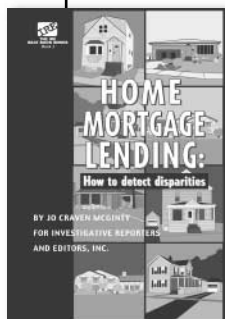
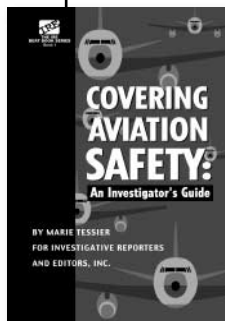
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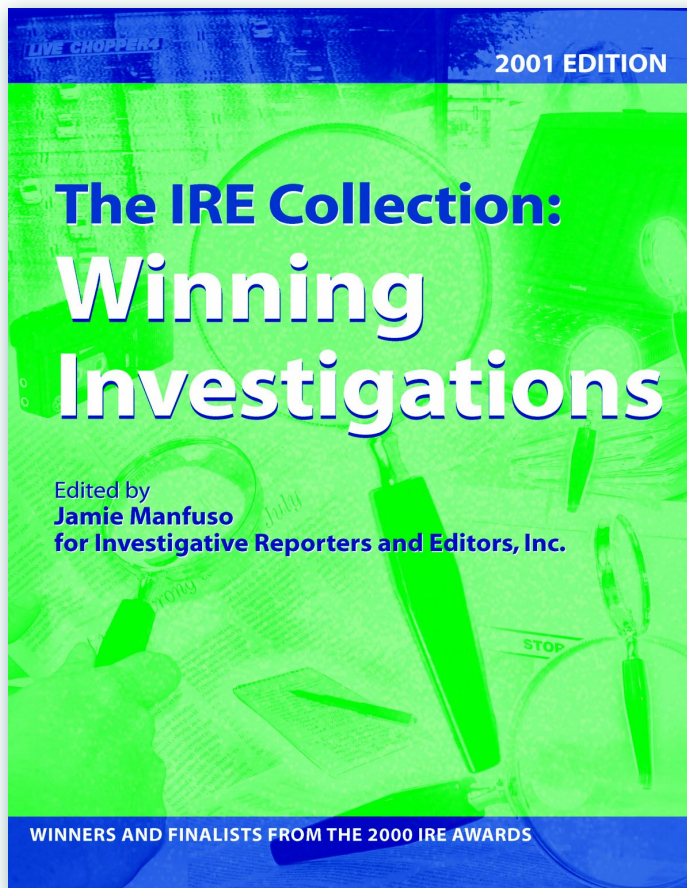
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In Fort Worth, they call it the “refrigerator door prize.” That is, the more Star-Telegram readers find reason to pin items from the paper to the refrigerator door, the better its editors feel they are reaching their community.

Certainly it’s one measure. We can think of many others. In no special order: (a) involvement by management and employees in community activities, everything from a halfway house to a United Way campaign (b) public service journalism (c) hiring practices that reflect the diversity of the community in the newspaper’s staff, and editorial practices that do the same in its pages (d) strong support in a crisis (e) special recognition for employees who make special commitments to their communities (f) Kids Voting, literacy projects and the like.

At Knight Ridder, we regard all of these as important. As critical as it is for the reporting of the news to be impartial, it is equally critical that the newspaper itself be part of the fabric of its community. That it care what happens to a town, city or region in ways that people recognize as real ... by celebrating what’s good, by helping to understand what isn’t, and by demonstrating – in deed as well as word – that the well-being of the people who make possible the paper’s prosperity is its true noble purpose.

Over the years, we have found a variety of ways to show this concern. We ask each of our publishers to take an active role in the community – and to encourage senior management to do

so as well. We ask each of our newspapers to “give back” materially to the communities that support them – and they do. We ask our newsrooms to make public service journalism projects a high priority. And we remind our editors to remind their staffs that saying “yes” to news the community finds important – like chamber of commerce awards and Little League scores – is a good way to make the newspaper important to the community. Thus the “refrigerator door prize.”

Most of the time, when community participation is called for, our approach is low-key. A publisher becomes the

especially in leadership roles, at our newspapers is among them. No Knight Ridder editor is less than very sensitive to the importance of minority representation on the pages of our papers. At The Miami Herald, with el Nuevo Herald, at the Fort Worth Star-Telegram, with La Estrella, and at the San Jose Mercury News, with Nuevo Mundo and Viet Mercury, that sensitivity has flowered into whole new publications.

Every October, when we present 15 James K. Batten Knight Ridder Excellence Awards to employees who excel in the disciplines important to publishing a newspaper, one of them recognizes community service and one diversity.

Every day, when we think about

content that matters most, we think about public service. In 2001, public service projects ranged from the (Wilkes-Barre, Pa.) Times Leader’s series on favoritism and cronyism in county government to the Detroit Free Press’ investigation of dragnet-style police operations. It’s one reason that over the past 15 years, we’ve won five of the Pulitzer Prize Gold Medals for Meritorious Public Service. It’s not the refrigerator door, but it’s nice.



Tony Ridder
Chairman and CEO



Mary Jean Connors
Senior Vice President/Human Resources

Involvement in Our Communities

chairperson of the United Way Campaign. An information technology director sits on the board of the local opera company. The “chicken dinner” news gets covered.

Sometimes, however, more is called for. In 1992, after Hurricane Andrew devastated Dade County, corporate executives helped launch Miami’s “We Will Rebuild” campaign – and two of them donated half their annual bonuses as seed money. Subsequent crises in other communities have prompted similar – if less dramatic – interventions. Like \$25,000 to plant trees in Grand Forks after the tornadoes last summer.

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